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FEDERAL COMMUNICATIONS COMMISSION

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Before the
Federal Communications Commission
Washington, D.C. 20554

LETTER
January 30, 1991

Released: February 11, 1991

Michael D. Levine
Partner
WWGS/WCUP Partnership
P.O. Box 61107
Midland, Texas 79711

re: Applications for Renewal
of Licenses for WWGS/WSGY(FM)
Tifton, Georgia

Dear Mr. Levine:

This refers to your pending applications for renewal of the licenses of Stations WWGS/WSGY(FM), Tifton, Georgia (File Nos. BR-881201VB and BRH-881201US).[1] Region V of the NAACP, its branches operating in your service area, and the National Black Media Coalition filed a petition to deny on March 1, 1989. By letter dated January 25, 1990, you, along with NAACP/NBMC, submitted a joint request for approval of your settlement agreement pursuant to *Formulation of Policies and Rules Relating to Broadcast Renewal Applicants, Competing Applicants, and Other Participants to the Comparative Renewal Process and to Prevention of Abuses of the Renewal Process*, 4 FCC Rcd 4780 (1989) (*Renewal Policies Order*). The agreement calls for dismissal of the petition and the licensee's payment of legal fees and expenses to the attorneys for NAACP/NBMC who worked on this case. The Commission will review agreements reached in exchange for dismissing a petition to deny in order to determine whether the agreement complies with the Commission's rules. We find that the settlement agreement you have submitted does comply with the Commission's rules and is, therefore, acceptable.[2]

Nonetheless, it is our practice in all cases to review each station's equal employment opportunity (EEO) program and performance pursuant to Section 309 of the Communications Act of 1934, as amended, 47 U.S.C. Section 309. Review of the EEO record of WWGS/WSGY-FM for the license term reflects a failure to comply with the Commission's EEO Rule. Accordingly, pursuant to Section 503 of the Communications Act of 1934, as amended, 47 U.S.C. Section 503, this letter also constitutes a Notice of Apparent Liability for Forfeiture.

Section 73.2080 of the Commission's Rules, 47 C.F.R. Section 73.2080, requires that a broadcast licensee refrain from employment discrimination and establish and maintain an affirmative action program reflecting positive and continuing efforts to recruit, employ and promote qualified women and minorities. When evaluating EEO performance, the Commission focuses on the licensee's efforts to recruit, employ and promote qualified minorities and women and the licensee's ongoing assessment of its EEO efforts. Such an assessment enables the licensee to take corrective action if qualified minorities and women are not present in the applicant pool. The Commission also focuses on any evidence of discrimination by the licensee.

When the renewal application indicates an absence of evidence of discrimination and a record of adequate EEO efforts, the application is granted, if otherwise appropriate. When the application indicates inadequate EEO efforts, the Commission may impose a variety of sanctions, such as reporting conditions, renewal for less than a full term, forfeiture, or a combination thereof. Further, the Commission will designate the renewal application for hearing where the facts so warrant. *Amendment of Part 73 of the Commission's Rules Concerning Equal Employment Opportunity in the Broadcast Radio and Television Services*, 2 FCC Rcd 3967 (1987), *petition for reconsideration pending*; *see* 4 FCC Rcd 1715 (1989) (request for clarification by National Association of Broadcasters).

You indicate that the station had 71 full-time hiring opportunities, 62 upper-level, from October 10, 1985 to October 10, 1988. During the reporting year, *i.e.*, the 12-month period prior to filing for renewal, you contacted several general recruitment sources including the Abraham Baldwin Agricultural College (three minority referrals), Bauder College (five minority referrals), Job Training Partnership Act/Coastal Plain EOA (three minority referrals), employees (three minority referrals), the Georgia Association of Broadcasters (no minority referrals), and Project Hope (no minority referrals).[3] During the renewal year, you also aired advertisements for job openings on your stations which yielded five minority referrals. From October 10, 1985 through October 10, 1988, you contacted other sources including Valdosta State College, the Brown Institute of Broadcasting, the Tift County Recreational Department, the Tift County High School, and Drake Chenault, a broadcasting consultant.[4] However, you used only employee referrals and radio advertisements for 42 of the 71 hiring opportunities.[5]

You documented the interview pool for only 16 of the 71 full-time hiring opportunities, including 13 of the 62 upper-level positions.[6] For these 16 positions, you interviewed 59 applicants, of whom two were Black and one was Hispanic. You hired the Hispanic for a lower-level position. You also hired six Blacks among the remaining 55 hires including one Black for an upper-level position. You claim that it is difficult to recruit minorities because Tifton, Georgia, is a small, isolated, rural community with an agricultural economy.[7]

While our review of your renewal application, your opposition to the NAACP/NBMC petition, and your response to our inquiry shows no evidence of discrimination or any substantial and material question of fact to warrant a hearing, it does reveal a record of inadequate EEO efforts. Although you attracted and hired minorities during the license term, your overall efforts and self-assessment of those efforts concern us. You state that you failed to attract more black applicants because of the agricultural economy in Tift County. However, you have failed to demonstrate that the economy affects races differently. Therefore, your argument is not a mitigating factor for failure to attract more minority applicants.

We find Stations WWGS/WSGY(FM)'s record similar to that of Stations WKZQ/WKZQ-FM in *Applications of Certain Broadcast Stations Serving Communities in the State of*

South Carolina, supra, note 4 (*WKZQ*), which was granted renewal for less than a full term subject to reporting conditions and a Notice of Apparent Liability for Forfeiture for $10,000. Like you, the licensee of WKZQ did not contact any outside recruitment sources for more than half of its hiring opportunities and did not engage in adequate self-assessment to determine the effectiveness of its recruitment efforts. Both licensees failed to keep applicant flow data for a large majority of their hiring opportunities. Both licensees failed to modify their EEO programs even though a low number of minorities were applying for vacancies in an area with a significant minority labor force. You hired seven minorities for overall positions whereas the licensee of WKZQ hired only one minority overall. However, whereas WKZQ hired one minority out of 39 upper-level hiring opportunities, WWGS only hired one minority out of 62 upper-level hiring opportunities.

In summary, while the stations' record does not warrant designation for a hearing, it is apparent that the stations' EEO efforts during the license term were deficient. Therefore, we will grant renewal for less than a full term and impose reporting conditions for three years and a Notice of Apparent Liability of Forfeiture for $10,000.

Accordingly, IT IS ORDERED, that the request for approval of settlement agreement between the NAACP/NBMC and WWGS/WCUP Partnership IS GRANTED.

IT IS FURTHER ORDERED, that the applications of WWGS/WCUP Partnership for renewal of the licenses of Stations WWGS/WSGY(FM) ARE GRANTED FOR A SHORT TERM ending April 1, 1992, subject to reporting conditions and a Notice of Apparent Liability of Forfeiture for $10,000.

IT IS FURTHER ORDERED that the licensee of Stations WWGS/WSGY(FM) submit an original and one copy of the following information on December 1, 1991, December 1, 1992, and December 1, 1993:

(a) For each report, a list of all job vacancies during the 12 months preceding the respective reporting dates, indicating the job title and full or part-time status of the position, date of hire, the race or national origin, sex and the referral source for each applicant for each job and the race or national origin and sex of the person hired. The list should also note which recruitment sources were contacted;[8]

(b) a list of employees as of the December 1, 1991, payroll period for the first report and as of the December 1, 1992 and December 1, 1993 payroll periods for the second and third reports, by job title, indicating part-time or full-time status (ranked from the highest to the lowest paid), date of hire, sex, and race or national origin;

(c) details concerning the station's efforts to recruit minorities for each position filled during the 12-month period specified, including identification of sources used and indicating whether any of the applicants declined actual offers of employment. In addition, the licensee may submit any relevant information with regard to the station's EEO performance and efforts thereunder.

In addition, you may submit any information you believe is relevant with regard to the stations' EEO program and your efforts thereunder. The reports are to be filed with the Secretary of the Commission to the attention of the Mass Media's EEO Branch.

Should you have any questions regarding this action or require further information concerning the employment reports, you may call the Mass Media Bureau's EEO Branch (202-632-7069). With respect to the forfeiture proceeding, you may take any of the actions set forth in Section 1.80 of the Commission's Rules, 47 C.F.R. Section 1.80, as summarized in the attachment to this letter. Any comments concerning your ability to pay should include those financial items set forth in the attachment.

BY DIRECTION OF THE COMMISSION

Donna Searcy
Secretary

cc: Karen Brinkman, Esquire

FOOTNOTES

[1] WCUP(FM) changed its call letters to WSGY(FM) on August 1, 1985.

[2] Although provision 1.2 of the Settlement Agreement (regarding development of an internship program) is to be accomplished in the future, it does not violate the intent of our rules.

[3] Although the Job Training Partnership Act/Coastal Plain EOA and Project Hope are listed on the EEO program, they were contacted only for one part-time position that was never filled. In addition, your office manager indicates that *Broadcasting Magazine* was erroneously listed as generating minority referrals.

[4] Although Drake Chenault was not listed on the stations' EEO program, the stations did contact this source throughout the review period including the reporting year. Other sources, such as the Brown Institute of Broadcasting and Tifton High School, were only contacted for openings before the reporting year.

[5] If a licensee obtains a meaningful pool of referrals and applicants from *exclusive* reliance on general sources, it will not be faulted for failing to contact minority specific sources. *Application of Certain Broadcast Stations Serving Communities in the State of South Carolina*, 5 FCC Rcd 1704, 1709 n.8 (1990) (*South Carolina*).

[6] The available labor force for Tift County, Georgia is 22.5% minority (20.9% Black, 1.2% Hispanic, .4% other). In 1988 the stations employed no minorities on an overall staff of 12 and an upper-level staff of 11. In 1987, there were two (13%) Blacks on an overall staff of 16 and one (7.7%) Black on an upper-level staff of 13. In 1986, there were no minorities on an overall staff of 16 and an upper-level staff of 15. Although the stations' 1986 annual employment report reflected no minorities on staff, the stations did employ a Black in a lower-level position outside the payroll reporting period. In 1985, there was one (5.9%) Black on an overall staff of 17 and one (6.7%) Black on an upper-level staff of 15. In 1984, there was one (5.6%) Black on an overall staff of 18 and one (6.7%) Black on an upper-level staff of 15. There were no minorities on the stations' staff in 1982 or 1983.

We note that the stations' size has decreased from 18 employees overall and 15 upper-level in 1984 to 12 overall and 11 upper-level in 1988.

[7] In its response to our inquiry, the licensee states that, "The stations have had difficulty recruiting minorities in the Tifton area who are qualified for or interested in working at a radio station, due, in large part, to the fact that the local agricultural economy serves to employ and to provide the base for most minority employment in this area."

[8] Such a list might start:

1. News Director:	Officials and Managers;	Full-time
3 Applicants:	1 white female	A.W.R.T.
	1 black male	Urban League
	1 black female	NAACP

Sources Contacted: Local Newspaper, A.W.R.T., Urban League, and NAACP

Selected: black male (03/15/91)

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 91-14

In re Applications of

Kennedy Broadcasting, Inc. — File No. BPH-900503ME

Pauline S. Hain — File No. BPH-900503MG

For Construction Permit
for a New FM Station on Channel 244A
in Burnham, Pennsylvania

HEARING DESIGNATION ORDER

Adopted: January 25, 1991; Released: February 11, 1991

By the Chief, Audio Services Division:

1. The Commission has before it the above-captioned mutually exclusive applications for a new FM station. Both applications are short-spaced to Station WQWK, University Park, Pennsylvania. However, WQWK's license was recently modified and it has been granted a construction permit (BPH-880808IH) to switch from Channel 244A to Channel 246A. Once WQWK begins operation on the latter channel, the short-spacing will be eliminated. Accordingly, any grant in this proceeding will be appropriately conditioned.

2. Data submitted by the applicants indicate there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue for the purpose of determining whether a comparative preference should accrue to any of the applicants.

3. Except as may be indicated by any issues specified below, the applicants are qualified to construct and operate as proposed. Since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

4. Accordingly, IT IS ORDERED, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications ARE DESIGNATED FOR HEARING IN A CONSOLIDATED PROCEEDING, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, best serve the public interest.

2. To determine, in light of the evidence adduced pursuant to the specified issues, which of the applications should be granted, if any.

5. IT IS FURTHER ORDERED, That in the event of a grant of either application, the following condition shall apply:

Program tests for the granted application will not commence on Channel 244A until program tests for WQWK commence on Channel 246A and a license will not be granted on Channel 244A until a license is granted for WQWK on Channel 246A.

6. IT IS FURTHER ORDERED, That a copy of each document filed in this proceeding subsequent to the date of adoption of this Order shall be served onthe counsel of record in the Hearing Branch appearing on behalf of the Chief, Mass Media Bureau. Parties may inquire as to the identity of the counsel of record by calling the Hearing Branch at (202) 632-6402. Such service shall be addressed to the named counsel of record, Hearing Branch, Enforcement Division, Mass Media Bureau, Federal Communications Commission, 2025 M Street, N.W., Suite 7212, Washington, D.C. 20554. Additionally, a copy of each amendment filed in this proceeding subsequent to the date of adoption of this Order shall also be served on the Chief, Data Management Staff, Audio Services Division, Mass Media Bureau, Federal Communications Commission, Room 350, 1919 M Street, N.W., Washington, D.C. 20554.

7. IT IS FURTHER ORDERED, That, to avail themselves of the opportunity to be heard, the applicants and any party respondent herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for hearing and to present evidence on the issues specified in this Order.

8. IT IS FURTHER ORDERED, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

FEDERAL COMMUNICATIONS COMMISSION

W. Jan Gay, Assistant Chief
Audio Services Division
Mass Media Bureau

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

MCI TELECOMMUNICATIONS CORPORATION — File No. I-T-C-91-033

Application for authority to acquire and operate facilities for direct service between the U.S. and Qatar.

ORDER, AUTHORIZATION AND CERTIFICATE

Adopted: January 31, 1991; Released: February 11, 1991

By the Chief, International Facilities Division:

1. The above-captioned application filed on November 19, 1990 by MCI Telecommunications Corp. (MCI) requests authority pursuant to Section 214 of the Communications Act of 1934, as amended, to acquire and operate facilities for direct service between the U.S. and Qatar. The application was placed on public notice on November 28, 1990. No comments were received. Upon consideration of the application, IT IS HEREBY CERTIFIED that the present and future public convenience and necessity require the provision of direct service between the U.S. and Qatar by MCI.

2. Accordingly, IT IS ORDERED that application File No. I-T-C-91-033 IS GRANTED, and MCI is authorized to:

a. lease from Comsat and operate 12 voice-grade satellite half-circuits between the Etam, West Virginia earth station and an appropriate satellite over the Atlantic Ocean, connecting with similar circuits between the satellite and an earth station in Qatar furnished by MCI's correspondent in Qatar;

b. lease from AT&T and operate 12 voice-grade circuits in the Etam, West Virginia earth station;

c. lease and operate 12 voice-grade connecting circuits between the Etam, West Virginia earth station and MCI's West Orange, New Jersey operating center; and

d. use said facilities to provide MCI's regularly authorized services, including switched voice between the U.S. and Qatar and beyond.

3. The Commission retains jurisdiction over this matter to reallocate circuits in the satellite system among the various international common carriers and other authorized users as required to ensure nondiscriminatory use of, and equitable access to, the communications satellite system.

4. No material changes inconsistent with this or any other relevant Commission order shall be made before final execution of an operating agreement between MCI and its correspondent in Qatar. A copy of the agreement shall be filed with the Commission within 30 days of its execution.

5. This order is issued under Section 0.291 of the Commission's Rules and is effective upon adoption. Petitions for reconsideration under Section 1.106 or applications for review under Section 1.115 of the Commission's Rules may be filed within 30 days of the date of public notice of this order (*see* Section 1.4(b)(2)).

FEDERAL COMMUNICATIONS COMMISSION

George S. Li
Chief, International Facilities Division
Common Carrier Bureau

Before the
Federal Communications Commission
Washington, D.C. 20554

PUBLIC NOTICE

Released: February 11, 1991

PETITION FOR DECLARATORY RULING PREEMPTING SATELLITE DISH ZONING

Joseph A. Carino has filed a petition requesting a declaratory ruling preempting the satellite dish antenna zoning ordinance of the Town of Deerfield, New York pursuant to the Commission's rule, Section 25.104, 47 U.S.C. 25.104. The petition states that the Deerfield, New York zoning ordinance discriminates against satellite antennas and prohibits such antennas on lots one-half acre or less in size. Petitioner also states that he has exhausted his private legal remedies. Comments or petitions filed in response to the petition are due on or before **March 15, 1991** and replies are due on or before **April 2, 1991.**

Copies of the petition can be obtained in the Domestic Facilities Division Public Reference Room, Room 6220, 2025 M Street, N.W., Washington, D.C. or by contacting Downtown Copy Center, 1114 21st St., N.W., Washington, D.C., (202) 452-1422. For further information contact Rosalee Chiara, (202) 634-1718.

Before the
Federal Communications Commission
Washington, D.C. 20554

In re

MOBILECOMM OF NEW MEXICO, INC.	File Nos. 63500-91-02-90 63500-91-03-RPS 63500-91-04-RPS
Notice of Apparent Liability for Forfeiture Penalty for Station KLB668 in the Public Land Mobile Service at Las Cruces, New Mexico and Truth or Consequences, New Mexico	63500-91-05-RPS 63500-91-06-RPS 63500-91-07-RPS

ORDER

Adopted: February 5, 1991; Released: February 11, 1991

By the Chief, Mobile Services Division:

1. Mobilecomm of New Mexico, Inc. (Mobilecomm) has filed a letter requesting remission of forfeitures totaling $54,000.00 imposed by the Mobile Services Division (MSD) in six "Notices of Apparent Liability for Forfeiture" (*NALF* s) issued on October 10, 1990.[1]

I. BACKGROUND

2. On February 16, 1990, Mobilecomm requested cancellation of all authorized facilities and dismissal of the pending renewal application for Call Sign KLB668. On March 7, 1990, the Commission canceled Call Sign KLB668 pursuant to Mobilecomm's requests.[2] On September 24, 1990, Mobilecomm filed applications for reinstatement of the authorization for six facilities at two locations. [3] On October 10, 1990, the MSD issued six separate *NALF* s, finding in each case an apparent violation of Section 22.3 of the Commission's rules for operating each facility without authorization and imposed a forfeiture of $9,000.00 in each *NALF*.[4]

II. MOBILECOMM'S CONTENTIONS

3. Mobilecomm states that it acquired control of Station KLB668 from Contact Communications, Inc. in 1987 but did not receive detailed records regarding the Station's facilities. Mobilecomm admits it mistakenly notified the Commission that all of its operations under Call Sign KLB668 were terminated, believing that frequencies 152.09 MHz and 152.72 MHz were the only ones authorized under the call sign. Mobilecomm also admits it continued its Improved Mobile Telephone Service (IMTS) operations on frequencies 454.275 MHz, 454.325 MHz, and 152.09 MHz even after the authorization was cancelled. It asserts that it did not intend to terminate service for these frequencies but simply made a mistake about which facilities were authorized under which call sign due to a lack of complete records as a result of a prior acquisition. Mobilecomm argues that once it discovered its error, it immediately contacted the Commission and acted promptly to file the FCC forms necessary to obtain reinstatement of the previous authorizations. Mobilecomm contends that its actions do not warrant the imposition of forfeitures.

III. DISCUSSION

4. After carefully reviewing the facts and Mobilecomm's assertions, we decline to grant its request for remission of the forfeitures. A licensee is responsible for complying with Commission rules and is responsible for its own acts and omissions. *See, e.g., Lorain Community Broadcasting Co.*, 18 FCC 2d 686 (1969). By Mobilecomm's own admission: (1) it wrongly informed the Commission that KLB668's operations were terminated and requested cancellation of the authorization, and (2) it continued its IMTS operations notwithstanding the fact that the authorization had been cancelled. We have previously noted that

> [t]he fact that the applicant's violation occurred through inadvertence does not prevent it from being willful. It is not necessary that the violation be intentional. All that is necessary is that the licensee knew he was doing the act in question . . . .

Mobile Radio Telephone & Paging Service, Inc., Mimeo No. 2397 (Com. Car. Bur., released Feb. 16, 1983). *See also* Section 312(f) of the Communications Act of 1934, as amended (the Act) which defines "willful." Consequently, there is no dispute that Mobilecomm operated each facility without authorization on a continuous basis for about seven months. Moreover, Mobilecomm's assertions involving failure to receive complete records when it took over Station KLB668 as partial justification for its errors are unavailing. As a licensee, Mobilecomm was required to operate in accordance with Commission rules and the terms of its authorizations and can not absolve itself of its duty to do so because it did not receive all records from the prior licensee.

5. The nature, circumstances, extent, and gravity of the prohibited violation were taken into account in setting the proposed forfeitures. *See* Section 503(b)(2)(B) of the Act. As a result, we conclude that Mobilecomm's asserted mitigating factors are insufficient to justify remission of the six imposed forfeitures. Therefore, we uphold the $9,000.00 forfeiture set forth in each of the six separate *NALF* s.

IV. ORDERING PARAGRAPHS

6. Accordingly, pursuant to Section 503(b) of the Act, 47 U.S.C. § 503(b), and Section 1.80(f)(4) of the Commission's rules, 47 C.F.R. § 1.80(f)(4), IT IS ORDERED that Mobilecomm of New Mexico, Inc. FORFEIT to the United States the sum of Fifty Four Thousand Dollars ($54,000.00), *i.e.*, $9,000.00 for six separate violations of Section 22.3 of the Commission's rules.[5] Payment of the forfeitures may be made by mailing a check or similar instrument to the Commission payable to the order of the Federal Communications Commission within thirty (30)

days from the date of this Order to: Federal Communications Commission, Fee Section, Finance Branch, P.O. Box 10209, Washington, DC 20036.

7. IT IS FURTHER ORDERED that if said forfeitures are not paid within the period specified, the cases will be referred to the Department of Justice for collection pursuant to Section 504(a) of the Act, 47 U.S.C. § 504(a).

8. IT IS FURTHER ORDERED that a copy of this Order BE SENT to Mobilecomm of New Mexico, Inc. by Certified Mail, Return Receipt Requested.

FEDERAL COMMUNICATIONS COMMISSION

Gregory J. Vogt
Chief, Mobile Services Division
Common Carrier Bureau

FOOTNOTES

[1] We are addressing the six separate *NALF* s for purposes of responding to Mobilecomm's arguments.

[2] *See Public Notice*, Mimeo No. 2068 (released Mar. 7, 1990).

[3] Previous requests for reinstatement were dismissed as defective. *See* Letter from Chief, MSD to David Richards (Aug. 23, 1990).

[4] On October 16, 1990, the MSD granted Mobilecomm Special Temporary Authority to operate six facilities at two locations, effective October 15, 1990, to April 3, 1991.

[5] These six separate forfeitures are consolidated in this Order for administrative convenience.

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 91-10

In re Applications of

(Charley Cecil & Dianna Mae White d/b/a) WHITE BROADCASTING PARTNERSHIP (hereafter "White")	File No. BPH-891214MM
PEACHES BROADCASTING, LTD. (hereafter "Peaches")	File No. BPH-891214MN
SAGE BROADCASTING CORPORATION OF JUPITER, FLORIDA (hereafter "Sage")	File No. BPH-891214MR
FIRST COAST BROADCASTING COMPANY (hereafter "Coast")	File No. BPH-891214MU
DOUGLAS JOHNSON (hereafter "Johnson")	File No. BPH-891214MZ
NORTHEAST FLORIDA BROADCASTING CORP. (hereafter "Northeast")	File No. BPH-891214NA
JEM PRODUCTIONS, LIMITED PARTNERSHIP C/O JOYCE MORGAN (hereafter "JEM")	File No. BPH-891214ND

For Construction Permit
for a New FM Station on Channel 289A
in Baldwin, Florida

HEARING DESIGNATION ORDER

Adopted: January 25, 1991; Released: February 11, 1991

By the Chief, Audio Services Division:

1. The Commission has before it the above-captioned mutually exclusive applications for a new FM station.

2. *Cross-Interest.* Charley Cecil White, a principal in White Broadcasting Partnership, states he is employed as the general manager of WJXR(FM), Macclenny, Florida. Cecil Whites's employment is in a managerial capacity and represents a potential violation of the Commission's cross-interest policy. *See, e.g., Martin Lake Broadcasting Company*, 21 FCC 2d 180, 181-182 (1970). Cecil White has indicated his intent to terminate his employment with WJXR (FM) in the event of grant of his application.

3. *Short-spacing.* Coast and JEM are short-spaced to the coordinates in a pending Rule Making (MM Docket 90-164) to upgrade FM Station WSOS's facilities to Channel 288C3. Accordingly, any construction permit awarded to either Coast or JEM shall be made contingent on the outcome of Commission Rule Making Docket MM 90-164.

4. Section II, Item 6 of FCC Form 301 (June, 1989) requires that an applicant specify its address (number, street, city, state) as well as the home address of each of its principals. Sage has not completed Item 6 correctly. Sage's application gives no specific street address for any of its principals. Accordingly, Sage must submit an amendment which gives all the information required by Section II, Item 6 to the presiding Administrative Law Judge after this Order is released.

5. *Air Hazard.* Attempts to obtain FAA clearance through the Commission's Antenna Survey Branch and the applicants, White, Peaches, Sage, Coast, Johnson and Northeast, have been unsuccessful. Accordingly, since no determination has been received as to whether the antenna proposed by the applicants would constitute a hazard to air navigation, an issue with respect thereto will be included and the FAA made a party to the proceeding.

6. Sage petitioned for leave to amend its application on October 4, 1990. The accompanying amendment was filed after April 20, 1990, the last date for filing minor amendments as of right. Under Section 1.65 of the Commission's Rules, the amendment is accepted for filing. However, an applicant may not improve its comparative position after the time for filing amendments as of right has passed. Therefore, any comparative advantage resulting from the amendment will be disallowed.

7. Data submitted by the applicants indicate there would be significant difference in the size of the populations which would receive service from the proposals. Consequently, the populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue for the purpose of determining whether a comparative preference should accrue to any of the applicants.

8. Except as may be indicated by any issues specified below, the applicants are qualified to construct and operate as proposed. Since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

9. Accordingly, IT IS ORDERED, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications ARE DESIGNATED FOR HEARING IN A CONSOLIDATED PROCEEDING, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether there is a reasonable possibility that the tower height and location proposed by White, Peaches, Sage, Coast, Johnson and Northeast would constitute a hazard to air navigation.

2. To determine which of the proposals would, on a comparative basis, best serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the specified issues, which of the applications should be granted, if any.

10. IT IS FURTHER ORDERED, That, in the event of grant of White's application, Charley White will be ordered to divest himself of all interests in and sever all connections with Station WJXR(FM) prior to the commencement of program test authority.

11. IT IS FURTHER ORDERED, That any construction permit awarded to Coast or JEM as a result of this proceeding shall be made contingent on the outcome of MM Docket 90-164.

12. IT IS FURTHER ORDERED, That Sage shall submit an amendment which contains the information required by Section II, Item 6 of FCC Form 301, to the presiding Administrative Law Judge within 30 days after the release of this Order.

13. IT IS FURTHER ORDERED, That the Federal Aviation Administration IS MADE A PARTY to this proceeding with respect to the air hazard issue only.

14. IT IS FURTHER ORDERED, That the petition for leave to amend filed by Sage IS GRANTED, and the corresponding amendment IS ACCEPTED to the extent indicated herein.

15. IT IS FURTHER ORDERED, That a copy of each document filed in this proceeding subsequent to the date of adoption of this Order shall be served on the counsel of record in the Hearing Branch appearing on behalf of the Chief, Mass Media Bureau. Parties may inquire as to the identity of the counsel of record by calling the Hearing Branch at (202) 632-6402. Such service shall be addressed to the named counsel of record, Hearing Branch, Enforcement Division, Mass Media Bureau, Federal Communications Commission, 2025 M Street, N.W., Suite 7212, Washington, D.C. 20554. Additionally, a copy of each amendment filed in this proceeding subsequent to the date of adoption of this Order shall also be served on the Chief, Data Management Staff, Audio Services Division, Mass Media Bureau, Federal Communications Commission, Room 350, 1919 M Street, N.W., Washington, D.C. 20554.

16. IT IS FURTHER ORDERED, That, to avail themselves of the opportunity to be heard, the applicants and any party respondent herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for hearing and to present evidence on the issues specified in this Order.

17. IT IS FURTHER ORDERED, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

FEDERAL COMMUNICATIONS COMMISSION

W. Jan Gay, Assistant Chief
Audio Services Division
Mass Media Bureau

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 91-15

In re Applications of

CLE BROADCASTING LIMITED PARTNERSHIP (hereafter "CLE")	File No. BPH-890705ME
RADIO INGSTAD MINNESOTA, INC. (hereafter "Ingstad")	File No. BPH-890706MA
WAITE PARK BROADCASTING CO. (hereafter "Waite")	File No. BPH-890707MA

For Construction Permit
for a New FM Station on
Channel 241A (96.1 MHz)
in LeSueur, Minnesota

HEARING DESIGNATION ORDER

Adopted: January 25, 1991; Released: February 11, 1991

By the Chief, Audio Services Division:

1. The Commission has before it the above-captioned mutually exclusive applications for a new FM station.

2. *Ingstad.* Section II, Item 6 of FCC Form 301, June, 1989, requires that an applicant specify its address (number, street, city, state) as well as the home address of each of its principals. Ingstad has not completed Item 6 correctly. Ingstad's application gives a post office box number as the residence address for Robert E. and Jan Ingstad. Accordingly, Ingstad must submit an amendment which gives all the information required by Section II, Item 6 to the presiding Administrative Law Judge after this Order is released.

3. Waite petitioned for leave to amend its application on November 7, 1990. The accompanying amendment was filed after January 10, 1990, the last date for filing minor amendments as of right. Under Section 1.65 of the Commission's Rules, the amendment is accepted for filing. However, an applicant may not improve its comparative position after the time for filing amendments as of right has passed. Therefore, any comparative advantage resulting from the amendment will be disallowed.

4. Except as may be indicated by any issues specified below, the applicants are qualified to construct and operate as proposed. Since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

5. Accordingly, IT IS ORDERED, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications ARE DESIGNATED FOR HEARING IN A CONSOLIDATED PROCEEDING, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, best serve the public interest.

2. To determine, in light of the evidence adduced pursuant to the specified issues, which of the applications should be granted, if any.

6. IT IS FURTHER ORDERED, That Ingstad shall submit an amendment which contains the information required by Section II, Item 6 of FCC Form 301, to the presiding Administrative Law Judge within 30 days after the release of this Order.

7. IT IS FURTHER ORDERED, That the petition for leave to amend filed by Waite IS GRANTED, and the corresponding amendment IS ACCEPTED to the extent indicated herein.

8. IT IS FURTHER ORDERED, That a copy of each document filed in this proceeding subsequent to the date of adoption of this Order shall be served on the counsel of record in the Hearing Branch appearing on behalf of the Chief, Mass Media Bureau. Parties may inquire as to the identity of the counsel of record by calling the Hearing Branch at (202) 632-6402. Such service shall be addressed to the named counsel of record, Hearing Branch, Enforcement Division, Mass Media Bureau, Federal Communications Commission, 2025 M Street, N.W., Suite 7212, Washington, D.C. 20554. Additionally, a copy of each amendment filed in this proceeding subsequent to the date of adoption of this Order shall also be served on the Chief, Data Management Staff, Audio Services Division, Mass Media Bureau, Federal Communications Commission, Room 350, 1919 M Street, N.W., Washington, D.C. 20554.

9. IT IS FURTHER ORDERED, That, to avail themselves of the opportunity to be heard, the applicants and any party respondent herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for hearing and to present evidence on the issues specified in this Order.

10. IT IS FURTHER ORDERED, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

FEDERAL COMMUNICATIONS COMMISSION

W. Jan Gay, Assistant Chief
Audio Services Division
Mass Media Bureau

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 91-13

In re Applications of

VALUE RADIO CORPORATION (hereafter "Value") — File No. BPH-890706MB

MISHICOT BROADCASTING CORPORATION (hereafter "Mishicot") — File No. BPH-890706MC

For Construction Permit
for a New FM Station on Channel 298A
in Mishicot, Wisconsin

HEARING DESIGNATION ORDER

Adopted: January 25, 1991; Released: February 11, 1991

By the Chief, Audio Services Division:

1. The Commission has before it the above-captioned mutually exclusive applications for a new FM station.

2. *Preliminary Matter*. The Mishicot applications being considered in this proceeding now conflict with a pending Rule Making proceeding to amend the FM Table of Allotments to, *inter alia*, substitute Channel 298A for 242A at Brillion, Wisconsin. *See, Notice of Proposed Rule Making and Order*, Docket 89-282, 4 FCC Rcd 4970 (1989). At the time of filing, however, the Mishicot applications met all of the spacing criteria of 47 C.F.R. § 73.207(a) and were consequently accepted for filing. Accordingly, we will designate these applications for hearing. However, the construction permit issued to any of these applicants will be conditioned upon the outcome of the Brillion, Wisconsin Rule Making proceeding.

3. *Value*. Attempts to obtain FAA clearance through the Commission's Antenna Survey Branch and the applicant have been unsuccessful. Accordingly, since no determination has been received as to whether the antenna proposed by Value would constitute a hazard to air navigation, an issue with respect thereto will be included and the FAA made a party to the proceeding.

4. The applicants below have petitioned for leave to amend their application on the dates shown. The accompanying amendments were filed after the last date for filing amendments as of right. Under Section 1.65 of the Commission's Rules, the amendments are accepted for filing. However, an applicant may not improve its comparative position after the time for amendments as of right has passed. Therefore, any comparative advantage resulting from the amendments will be disallowed.

APPLICANTS	AMENDMENTS FILED
Value	April 2, 1990
Mishicot	June 13, 1990

5. Data submitted by the applicants indicate there would be significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue for the purpose of determining whether a comparative preference should accrue to any of the applicants.

6. Except as may be indicated by any issues specified below, the applicants are qualified to construct and operate as proposed. Since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

7. Accordingly, IT IS ORDERED, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications ARE DESIGNATED FOR HEARING IN A CONSOLIDATED PROCEEDING, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether there is a reasonable possibility that the tower height and location proposed by the Value would constitute a hazard to air navigation.

2. To determine which of the proposals would, on a comparative basis, better serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the specified issues, which of the applications should be granted, if any.

8. IT IS FURTHER ORDERED, That, in the event that a construction permit is granted to any applicant in this proceeding, it shall be conditioned upon the outcome of the Brillion, Wisconsin Rule Making proceeding.

9. IT IS FURTHER ORDERED, That the Federal Aviation Administration IS MADE A PARTY to this proceeding with respect to the air hazard issue only.

10. IT IS FURTHER ORDERED, That the petitions for leave to amend filed by Value and Mishicot ARE GRANTED, and the corresponding amendments ARE ACCEPTED to the extent indicated herein.

11. IT IS FURTHER ORDERED, That a copy of each document filed in this proceeding subsequent to the date of adoption of this Order shall be served on the counsel of record in the Hearing Branch appearing on behalf of the Chief, Mass Media Bureau. Parties may inquire as to the identity of the counsel of record by calling the Hearing Branch at (202) 632-6402. Such service shall be addressed to the named counsel of record, Hearing Branch, Enforcement Division, Mass Media Bureau, Federal Communications Commission, 2025 M Street, N.W., Suite 7212, Washington, D.C. 20554. Additionally, a copy of each amendment filed in this proceeding subsequent to the date of adoption of this Order shall also be served on the Chief, Data Management Staff, Audio Services Di-

vision, Mass Media Bureau, Federal Communications Commission, Room 350, 1919 M Street, N.W., Washington, D.C. 20554.

12. IT IS FURTHER ORDERED, That, to avail themselves of the opportunity to be heard, the applicants and any party respondent herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for hearing and to present evidence on the issues specified in this Order.

13. IT IS FURTHER ORDERED, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

FEDERAL COMMUNICATIONS COMMISSION

W. Jan Gay, Assistant Chief
Audio Services Division
Mass Media Bureau

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 90-172

In re Applications of

CAROL SUE BOWMAN File No. BPH-880406MH

HEART OF VIRGINIA BROADCASTING File No. BPH-880407ND

For Construction Permit for a
New FM Station on Channel 268A
in Vinton, Virginia

Appearances

Ann C. Farhat, on behalf of Carol Sue Bowman; *Gregg P. Skall*, and *Linda Bocchi*, on behalf of Heart of Virginia Broadcasting; and *Gary Schonman*, on behalf of Chief, Mass Media Bureau.

INITIAL DECISION OF ADMINISTRATIVE LAW JUDGE JOSEPH CHACHKIN

Issued: February 4, 1991 **Released: February 11, 1991**

PRELIMINARY STATEMENT

1. This proceeding involves the mutually exclusive applications for a new FM station at Vinton, Virginia of Carol Sue Bowman (Bowman) and Heart of Virginia Broadcasting (Heart).[1] The applications were designated for hearing by the Commission in its *Hearing Designation Order*, DA 90-441, released May 10, 1990. The *HDO* specified the following issues for hearing.

> 1. To determine whether Heart of Virginia Broadcasting timely apprised the Commission of changes in the media interests of its principals in accordance with 47 C.F.R. § 1.65.
>
> 2. To determine which of the proposals would, on a comparative basis, best serve the public interest.
>
> 3. To determine, in light of the evidence adduced pursuant to the specified issues, which of the applications should be granted, in any.[2]

2. The hearing began and concluded on November 28, 1990. The Presiding Judge closed the evidentiary record on December 17, 1990, by *Order*, FCC 90M-3976. Proposed findings and conclusions of law were filed January 4, 1991.

PROPOSED FINDINGS OF FACT

Carol Sue Bowman

3. Carol Sue Bowman is an individual female applicant. In the event her application is granted, Ms. Bowman will be integrated into station management on a fulltime basis, a minimum of 40 hours per week, as the General Manager of her proposed Vinton FM radio station. In this role, Ms. Bowman will direct and supervise the overall operations of the station and its employees. In order to effectuate her integration proposal, Ms. Bowman will terminate her current employment position with Norfolk Southern Corporation, Roanoke, Virginia (Bowman Ex. 1, pp. 1-2).

4. Ms. Bowman was born on August 15, 1939 in Vinton, Virginia and has resided in Vinton, Virginia (1939-1950, 1959-1961, 1971-1974, mid-1985 to present), or communities contiguous to Vinton and located in her proposed station's service area (city of Roanoke, Virginia, 1950-1959, 1961-1967, 1969-1971; Roanoke County, Virginia (mailing address: Salem, Virginia), 1975-1985), virtually her entire life. Since 1986, Ms. Bowman has resided (and shall continue to reside) at 857 Onley Road, Vinton, Virginia (Bowman Ex. 1, p. 1).

5. Ms. Bowman has participated in the following civic and community activities in Vinton, Virginia and Roanoke, Virginia (which is located in the station's proposed service area): Special Olympics (solicited funds through T-shirt and candy sales -- 1988, 1989, 1990 (approximately 10 hours each year); United Way (solicited funds, approximately two (2) to three (3) hours each week during the period mid-October to mid-November 1987, 1989 and 1990); Fund for Needy Children (solicited for Christmas, approximately one (1) hour (1990)); Former Member, Railway Business Women's Association (1989-1990) (attended approximately four (4) monthly meetings, each lasting approximately two (2) hours; also participated in fundraising activities (approximately two (2) hours)) (Bowman Ex. 1, p. 2).

6. Ms. Bowman holds no ownership interest in any medium of mass communications. *Id.*

7. In the event her application is granted, Ms. Bowman will provide auxiliary power generators in order to assure station operation in the event of power outages (Bowman Ex. 1, p. 1).

HEART OF VIRGINIA BROADCASTING

Standard Comparative Issue

8. Heart is a general partnership initially formed on April 6, 1988 by oral agreement, under the laws of Virginia. The oral partnership was later documented and was amended on June 18, 1990. Under the amended partnership, Gregg P. Skall owns fifty percent (50%) of the voting and management power over the partnership, as well as fifty percent of the partnership equity. Philip A. Rubin and Robert A. Bednarek are the other general partners, each holding twenty-five percent (25%) of the voting and management power over the partnership and each owning twenty-five percent (25%) of the organization's equity (Heart Ex. 1, p. 1).

9. Heart does not seek credit for the integration of its principals (Tr. 26).

10. None of the principals of Heart has an ownership interest in any broadcast facilities (Tr. 22; Heart Ex. 3(a), p. 2).

11. Heart proposes to install emergency power generating equipment at its main studio and transmitter (Heart Ex. 2, p. 1).

Section 1.65 Reporting Issue

12. Heart filed its application for a new FM radio station on Channel 268A at Vinton, Virginia on April 6, 1988. The application identified Mr. Skall as the Assistant Secretary of Joyner Communications, Inc. (JCI), licensee of WZFX-FM, Whiteville, North Carolina, WIKS-FM, New Bern, North Carolina, WQQK(FM), South Boston, Virginia, and proposed assigneee of WMVA(AM) & (FM), Martinsville, Virginia (Heart Ex. 3 at 2).

13. Mr. Skall had held the identical office, Assistant Secretary, in JCI's predecessor, Action Radio, Inc. (Action) (Heart Supp. Ex. 3 at 2). Action's interest in WZFX-FM was transferred to JCI pursuant to FCC Form 316 filed on September 23, 1987 (Heart Supp. Ex. 3(a) Attachment 3(a)(1)). The ownership report filed for WZFX-FM and WIKS by JCI on November 24, 1987 continued to reflect that Mr. Skall was Assistant Secretary of JCI, and that he held no ownership interest in JCI (Heart Supp. Ex. 3(a) at 2). It was not until December 28, 1988, more than eight months after Heart's application was filed, that Mr. Skall's title was changed by JCI. Mr. Skall was elected Vice President and Assistant Secretary of JCI (Heart Supp. Ex. 3(a), Attachment 3(a)(3)).

14. Accordingly, at the time Heart's application was filed, in early April of 1988, the ownership statement in its application was complete and accurate. The application listed all of the cross-ownership interests required to be disclosed to the Commission and properly identified Mr. Skall's title in JCI (Heart Ex. 3 at 2).

15. Subsequent to the filing of Heart's application, the principals of JCI created other entities with an ownership structure identical to that of JCI (Heart Ex. 3 at 2). Notably, although Mr. Skall was an officer of these companies, he never held any ownership interests in the entities, nor did he take any active part in the business affairs of the entities (Tr. 42; Heart Ex. 3 at 3).

16. In fact, throughout the entire period of time Mr. Skall served as an officer of Action and JCI, his duties remained administrative in nature (Heart Ex. 3 at 3). Specifically, his duties involved the preparation of minutes of corporate actions, meetings of shareholders and directors, the preparation of other documents for the company, and, occasionally when time was of the essence, the signing of applications to be timely filed with the Commission. Those same duties were performed by Mr. Skall as Assistant Secretary *and* as Vice President (Tr. 37).

17. Messrs. Joyner and Weil decided to consolidate the ownership of all of their then held stations into the single company, JCI (Heart Supp. Ex. 3(a) at Attachment 3(a)(1), page 5).

18. Following the filing of Heart's application, JCI's principals acquired two additional stations, WTFX-FM, Watertown, Wisconsin and WROV(AM), Roanoke, Virginia. For these stations, they reversed course and decided to create separate entities with an ownership structure identical to that of JCI (Heart Ex. 3 at 2). Mr. Skall was again appointed an officer of each of these companies for administrative convenience (Heart Ex. 3 at 3). Heart, however, inadvertently failed to amend its application to disclose Mr. Skall's position with regard to these two stations.

CONCLUSIONS

Standard Comparative Issue

19. Ms. Bowman has no ownership interest in any medium of mass communication, and is, therefore, entitled to 100% credit under the important diversification criterion. *See Policy Statement on Comparative Hearings* 1 FCC 2d 393, 5 RR 1901 (1965).

20. Similarly, Ms. Bowman is entitled to 100% quantitative integration credit for her proposal to serve forty hours per week or more as the station's General Manager. Ms. Bowman's proposal is entitled to qualitative enhancements for her female status, her long-time residence within the community of license and/or service area of the station, and her civic activities within the service area.

21. Ms. Bowman is also entitled to a slight enhancement credit for her proposal to install auxiliary power generators at the station. *Addendum to Policy Statement on Comparative Hearings*, 6 RR 2d 861 (1966).

22. Heart is also entitled to 100% diversification credit. Neither Messrs. Rubin or Bednarek appears to hold an ownership interest in any broadcast facility. While Heart's majority partner, Gregg P. Skall, is an officer of several licensee corporations, he holds no ownership interest in those corporations, and does not appear to have any material involvement in the management or operation of the stations controlled by those licensees. Thus, his interest is too remote to be considered under the diversification criterion. *RKO General, Inc.*, 60 RR 2d 1215, 1240 (Rev. Bd. 1986).

23. Heart, on the other hand, proposes no integration of any of its principals, and is, therefore, not entitled to any quantitative nor qualitative credit. *Policy Statement*. Like Bowman, Heart is entitled to a slight enhancement credit for proposing auxiliary power at its proposed station. *Addendum to Policy Statement on Comparative Hearings*, 6 RR 2d 861 (1966).

24. On balance, Bowman is clearly superior under the standard comparative issue. While the applicants are comparatively equal under both the diversification and auxiliary power criteria, Bowman is the only applicant entitled to integration credit and her application must be preferred.

Section 1.65 Reporting Issue

25. The record in this proceeding establishes that Heart violated Section 1.65 of the Commission's Rules by failing to report Skall's relationship with two additional stations acquired by JCI after the filing of Heart's Vinton application. Heart's failure to fully comply with the requirements of Section 1.65 of the Rules, however, was merely a technical violation of the Commission's rules, having no genuine bearing on Heart's qualifications to be a Commission licensee. Mr. Skall's testimony is uncontradicted that the reporting failures were due only to oversight, rather than through any intention to conceal or to deceive. Further, given the apparent insignificance under the comparative diversification criterion of Mr. Skall's role with respect to the various licensee corporations at issue, no benefit accrued to Heart through its failure to fully report

these interests. Thus, there was no motive for intentional concealment or deception. In light of this record, the Section 1.65 issue may be resolved in Heart's favor. *Georgia Radio, Inc.*, 17 RR 2d 330, 334 (Rev. Bd. 1969) (Review Board denied a request for §1.65 issue where reporting violation appeared inadvertent and did not benefit the applicant); *Vogel - Ellington Corp.*, 27 RR 2d 1685 (Rev. Bd. 1973) (Board resolves reporting issue in favor of applicant where there was no intent to conceal, and where violation was not serious enough to warrant disqualification).

ULTIMATE CONCLUSIONS

26. While both Bowman and Heart possess the basic qualifications to be a Commission licensees, Bowman is clearly superior under the standard comparative issue. Bowman is entitled to a decisive integration preference over Heart, further enhanced by her superior qualitative attributes. Consequently, Bowman is the preferred applicant.

Accordingly, IT IS ORDERED, That unless an appeal from this Initial Decision is taken by a party, or it is reviewed by the Commission on its own motion in accordance with Section 1.276 of the Rules,[3] the application of Carol Sue Bowman for a construction permit for a new FM radio station to operate on Channel 268A at Vinton, Virginia IS GRANTED; and the application of Heart of Virginia Broadcasting IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Joseph Chachkin
Administrative Law Judge

FOOTNOTES

[1] Two other applicants were originally designated for hearing in this proceeding. One, I. L. Ward, Jr., was dismissed for failure to file a notice of appearance or pay the required hearing fee. *Order*, FCC 90M-2189, released July 23, 1990. The other applicant, Joseph B. Prater and Joseph P. Durham, a Partnership, d/b/a Prater and Durham, was dismissed by the Presiding Judge for failure to timely demonstrate its financial qualifications and for failure to comply with discovery requests. *Order*, FCC 90M-2997, released September 21, 1990. The dismissal of Prater and Durham's application was affirmed by the Review Board in *Memorandum Opinion and Order*, FCC 90R-120, released January 3, 1991.

[2] The hearing issues listed pertain only to those applicants that were not dismissed prior to the comparative hearing.

[3] In the event exceptions are not filed within 30 days after the release of this Initial Decision, and the Commission does not review the case on its own motion, this Initial Decision shall become effective 50 days after its public release pursuant to Section 1.276(d).

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 87-86

In re Applications of

CHANNEL 32 BROADCASTING COMPANY	File No. BPCT-861215KS
MID-CONTINENT COMMUNICATIONS, INC.	File No. BPCT-8612162K
KANSAS CITY SKYWAVE, INC.	File No. BPCT-861216K2
T.V. 32, INC.	File No. BPCT-861216K4
HOLT LIMITED PARTNERSHIP	File No. BPCT-861216K7
KANSAS CITY TELEVISION, LTD. (KZKC(TV))	File No. BPCT-861216K8

For Construction Permit for New Television Station, Channel 32, Kansas City, Missouri

MEMORANDUM OPINION AND ORDER

Adopted: February 1, 1991; Released: February 12, 1991

By the Review Board: MARINO (Chairman), BLUMENTHAL, and ESBENSEN.

1. On January 8 and 10, 1991, Channel 32 Broadcasting Company (Channel 32) and Holt Limited Partnership (Holt), respectively, filed petitions for reconsideration of the Board's *Decision*, 5 FCC Rcd 7373 (Rev. Bd. 1990), in the captioned proceeding which denied their applications and granted the competing application of T.V. 32, Inc. (T.V. 32).[1]

2. Both petitioners claim that the Board erred in not considering the signal of noncommercial educational television station KMOS-TV, Sedalia, Missouri, in its calculus of "white" and "gray" area coverage proposed by all the applicants.[2] As authority, the petitioners rely upon *Valley Broadcasters, Inc.*, 5 FCC Rcd 2785 (1990) and *Real Life Educational Foundation of Baton Rouge, Inc.*, 5 FCC Rcd 3420 (Rev. Bd. 1990) (Board *Certification Order* concerning recognition of noncommercial stations in calculating media "voices").

3. Both petitions will be denied. Although *Valley Broadcasters* did announce a new policy of recognizing noncommercial broadcast stations in any *transmission* service analysis under Section 307(b),[3] the Commission has recently held that *Valley Broadcasters* is to be limited to its holding. *Real Life Educational Foundation of Baton Rouge, Inc.*, FCC 91-9, released January 16, 1991. There (at para. 17; emphasis added) it was declared that "it is clear that *Valley Broadcasters* did not involve an analysis of the *standard comparative criteria*. It simply reviewed the status of noncommercial stations in connection with our [prior] policy of excluding noncommercial stations from the 307(b) *transmission* analysis." The comparative coverage preference awarded in this case is a function of the standard comparative criteria,[4] unchanged by *Valley Broadcasting;* and as our *Certification Order* in *Real Life* exemplifies, the Board will not extend stated Commission policy without clear instruction. In view thereof, no occasion arises to reopen the record, or to reconsider our award of comparative coverage preferences in this proceeding.

4. ACCORDINGLY, IT IS ORDERED, That the Petition for Reconsideration, filed on January 8, 1991 by Channel 32 Broadcasting Company, and the Petition for Reconsideration and to Reopen the Record, filed on January 10, 1991, by Holt Limited Partnership, ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Eric T. Esbensen
Member, Review Board

FOOTNOTES

[1] Holt has styled its instant pleading as a "Petition for Reconsideration and to Reopen the Record". Channel 32 seeks to reopen the record in the text of its pleading. Both parties have submitted the identical engineering testimony of Kenneth Larkin, Jr. regarding KMOS-TV and the effect thereof on "white" and "gray" area calculations.

[2] Without consideration of noncommercial station KMOS-TV, the record below clearly established that T.V. 32 would provide substantial service to "white" and "gray" areas, and it was this coverage superiority which ensured the award of the construction permit in this proceeding to T.V. 32.

[3] Section 307(b) partakes of both a "transmission service" aspect and a "reception service" aspect. *See Land O'Lakes Broadcasting Corp.*, 4 FCC Rcd 344, 348 n. 1 (1989); *Archilla-Marcocci Spanish Radio Co.*, 101 FCC 2d 522, 526 (Rev. Bd. 1985), *rev. denied*, FCC 86-271, released May 30, 1986.

[4] *See Policy Statement on Comparative Broadcast Hearings*, 1 FCC 2d 393, 398-99 (1965); *Washoe Shoshone Broadcasting*, 5 FCC Rcd 5561, 5564 (1990) (comparative coverage preference applied).

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 89-387

In re Applications of

ROXANNE GIVENS	File No. BPH-871202MC
MINNESOTA PUBLIC RADIO	File No. BPED-871203MC
NANCY JEAN PETERSON	File No. BPH-871203MF
SOUTHWEST SUBURBAN BROADCASTING, INC.	File No. BPH-871203MH
CRIMIEL COMMUNICATIONS ASSOCIATES LIMITED PARTNERSHIP	File No. BPH-871203MN
JH BROADCAST LIMITED PARTNERSHIP	File No. BPH-871203NF
ANNE M. COUNIHAN	File No. BPH-871203NQ
COVE COMMUNICATIONS, INC.	File No. BPH-871203NT

For Construction Permit
for New FM Station, Channel 289A,
Eden Prairie, Minnesota

MEMORANDUM OPINION AND ORDER

Adopted: February 1, 1991; Released: February 12, 1991

By the Review Board: MARINO (Chairman), BLUMENTHAL, and ESBENSEN.

1. By *Memorandum Opinion and Order*, 5 FCC Rcd 5371 (Rev. Bd. 1990), *recon. dismissed*, 5 FCC Rcd 5905 (1990), *modified*, 5 FCC Rcd 7010 (Rev. Bd. 1990), the Review Board denied an appeal filed by N. Walter Goins (Goins) of his dismissal from this proceeding. Now before the Board are: (1) a document styled "Motion for Stay of Appeal Period Pending Other Commission Relief" filed December 7, 1990 (and supplemented December 14, 1990), by Goins, requesting the Board to stay "the appeal period" of our ruling, pending action on a Goins' petition for special relief and enforcement action purportedly outstanding before the Chief of the Mass Media Bureau; and (2) yet another Goins' petition, filed December 24, 1990, seeking, for the second time, reconsideration of our earlier ruling.[1] These pleadings will be summarily dismissed. As we explicitly noted earlier, *see* 5 FCC Rcd at 5905, petitions for reconsideration of interlocutory actions are not permitted by the Commission's Rules and will not be entertained. *See* 47 CFR §1.102(b)(2); 47 CFR §1.106(a)(1); 47 CFR §1.291(c)(3). And, Goins' motion for stay has been effectively mooted by the filing of his application for review of our ruling on December 24, 1990. Section 1.104(b) of the Commission's Rules, 47 CFR §1.104(b), explicitly prohibits a party from filing both a petition for reconsideration and an application for review of an action taken pursuant to delegated authority. Indeed, with the filing of Goins' appliction for review with the Commission, the Board no longer has jurisdiction over this proceeding insofar as it relates to Goins' earlier proposal.[2]

2. ACCORDINGLY, IT IS ORDERED, That the Motion for Stay, filed December 7, 1990, as supplemented December 14, 1990, and the Petition for Reconsideration, filed December 24, 1990, by N. Walter Goins ARE DISMISSED; and,

3. IT IS FURTHER ORDERED, That the Request for Clarification of Appeal as of Right of N. Walter Goins, filed December 19, 1990, by N. Walter Goins IS DISMISSED, as moot; that the Motion to Dismiss the Application of Minnesota Public Radio, filed January 2, 1991, by N. Walter Goins IS DISMISSED; and that the Motions to Dismiss Petition for Reconsideration, filed January 4, 1991, respectively by Southwest Suburban Broadcasting, Inc. and JH Broadcast Limited Partnership ARE DISMISSED, as moot.[3]

FEDERAL COMMUNICATIONS COMMISSION

Eric T. Esbensen
Member, Review Board

FOOTNOTES

[1] Also before the Board are the following related motions: (1) Request for Clarification of Appeal as of Right of N. Walter Goins, filed December 19, 1990, by Goins; (2) Motion to Dismiss the application of Minnesota Public Radio, filed January 2, 1991, by Goins; (3) Motion to Dismiss Petition for Reconsideration, filed January 4, 1991, by JH Broadcast Limited Partnership; and (4) Motion to Dismiss Petition for Reconsideration, filed January 4, 1991, by Southwest Suburban Broadcasting, Inc.

[2] Goins' continuous filings before the Review Board relating to this proceeding indicate that Goins is not aware of his current legal status. As a result of his application dismissal, he is no longer a party to the proceeding before the ALJ and, therefore, lacks standing to challenge rulings therefrom while he attempts to show that his application dismissal was erroneous. *See Meridian Communications*, 2 FCC Rcd 5904 (Rev. Bd. 1987). Of course, any resolution of the ongoing proceeding cannot become final until Goins' application for review is acted upon. *Id.* If the Commission concludes that Goins' application should not have been dismissed, the other parties will be subject to whatever relief the Commission mandates. *Denton FM Radio, Ltd.*, 58 RR 2d 265 (Rev. Bd. 1985). Goins should cease and desist from filing additional documents with the Review Board.

[3] Pre-publication copies of this document will be mailed to the remaining parties and to N. Walter Goins at the address indicated in his petition: 931 Lakeshore Drive, Big Lake, Minnesota 55309-0417.

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 88-559

In re Applications of

A. P. WALTER, JR. File No. BPH-870824MS

LADIES III BROADCASTING, INC. File No. BPH-870824MV

For Construction Permit for a New FM Station, Channel 286C, Panama City Beach, Florida

Appearances

Dennis S. Kelley, Esquire, on behalf of A. P. Walter, Jr., and *Ellen S. Mandell, Esquire*, on behalf of Ladies III Broadcasting, Inc.

DECISION

Adopted: February 1, 1991; Released: February 14, 1991

By the Review Board: MARINO (Chairman) and BLUMENTHAL. Board Member ESBENSEN not participating.

Board Member BLUMENTHAL.

1. The Review Board has before it: (a) the *Initial Decision* of Administrative Law Judge Edward J. Kuhlmann (ALJ), 5 FCC Rcd 1788 (1990) (*I.D.*), granting the application of Ladies III Broadcasting, Inc. (Ladies III) for a new FM station at Panama City Beach, Florida, and denying the competing application of A. P. Walter, Jr.;(b) Walter's exceptions filed April 20, 1990, and Ladies III's reply thereto, filed May 3, 1990; (c) Ladies III's October 19, 1990 supplement responding to the Board's *Memorandum Opinion and Order*, FCC 90R-82, released September 18, 1990, and Walter's October 29, 1990 comments on Ladies III's supplement; and (d) Walter's "Renewal of Motion to Enlarge Issues," filed on November 5, 1990, and Ladies III's opposition, and addendum, filed on November 26, and 27, 1990, respectively. For the reasons set forth herein, we resolve the financial qualifications and financial certification issues in Ladies III's favor, and affirm the *I.D.* 's grant of the construction permit to Ladies III.

BACKGROUND

2. Walter and Ladies III are the two remaining applicants who participated in a comparative hearing, held on October 2, 1989, for a construction permit for a new Class C FM station at Panama City Beach, Florida. Ladies III is a corporation comprised of three stockholders: president Barbara Hoy, a 35% stockholder; her daughter, secretary-treasurer Terralyn Hoy, 16% stockholder; and vice-president Shirlee Phillips, a 49% stockholder (Ladies III Exhibit 1). Barbara Hoy has worked at two broadcast stations in Arkansas and Florida, and, from 1978 to 1980, was the principal owner of WESY(AM), Leland, Mississippi (Ladies III Exhibit 3). Terralynn Hoy has worked at four stations since 1973 in a variety of sales positions (Ladies III Exhibit 4). While Shirlee Phillips has no past broadcast experience, she is a long-time friend of Barbara Hoy (Ladies III Exhibits 1, 5).

3. Before the hearing, the ALJ added the following issues against Ladies III:

> (a) To determine whether Ladies III Broadcasting, Inc. is financially qualified to become a Commission licensee.
>
> (b) To determine whether Ladies III Broadcasting, Inc.'s certification of its financial qualifications was reliable and truthful and, if not, whether Ladies III Broadcasting, Inc. should be disqualified.

These financial issues, in addition to the standard comparative issue, were tried at the hearing, and all were resolved in Ladies III's favor by the *I.D.* Specifically, the *I.D.* found that Barbara Hoy, before certifying that the applicant was financially qualified in its August 24, 1987 application, estimated that the station could be constructed and operated for three months at a cost of between $205,000 and $250,000. This estimate was based on information supplied to her from her engineer and confirmed by her experience in broadcasting. To fund this proposal, which proposed to sidemount an antenna on an existing tower, Hoy obtained a $250,000 bank loan letter from the Barnett Bank, Tallahassee, Florida, signed by Booker Moore, dated August 7, 1987, and Shirlee Phillips obtained a $250,000 loan letter from the Third National Bank (TNB) in Nashville, Tennessee, dated August 12, 1987, signed by Brian Williams, TNB Commercial Officer. Ladies III's cost estimate increased to $405,000 as a result of a November 12, 1987 engineering amendment proposing to erect a self-supporting tower at a different site, and Mrs. Hoy obtained a substitute $250,000 loan letter from the Tallahassee State Bank, on December 14, 1988, from Booker Moore to replace his August 7, 1987 letter, because Moore was now working at this bank.

4. The *I.D.* found that Ladies III's cost estimates were reasonable, based on the applicant's plan to lease both the original and amended tower sites, and its expectation to purchase its equipment on credit. The *I.D.* had no problems with either of Moore's two bank letters, and concluded that the TNB letter was not an "accommodation" letter, notwithstanding the fact that the letter did not mention any specific collateral for the $250,000 loan, and the fact that Mrs. Phillips' husband obtained the letter for her. Therefore, finding that Ladies III had $500,000 available to fund its $405,000 proposal, the *I.D.* resolved the added financial issues in the applicant's favor. Moreover, since Ladies III was the clear winner under the standard comparative issue (being the only applicant to propose integration), the *I.D.* awarded the construction permit to Ladies III. Because no exceptions have been filed regard-

ing the standard comparative issue, this case turns on the issues added by the ALJ and on an additional issue requested by Walter.

5. Walter excepts to several aspects of the *I.D.* 's resolution of the financial issues and to the ALJ's rejection of his request for a real-party-in-interest issue against Ladies III. First, with respect to finances, Walter claims that the true cost for Ladies III's original proposal was $335,000, instead of the $205,000 to $250,000 figure found by the *I.D.* This difference is due to the $75,000 cost of modifying the existing tower, which Walter faults Ladies III for omitting, and a variety of lesser operational costs, which Walter calculates differently. Further, Walter contends that the actual cost of Ladies III's amended proposal of November 12, 1987 was $793,000, and that its actual present-day costs are $1,023,000. Thus, Walter faults the *I.D.* 's cost calculations, for not making "line item cost estimates," for finding that Ladies III could obtain its equipment and amended tower site on credit, and for discounting Ladies III's failure to include prosecution costs in its overall estimates. Also, Walter objects to the *I.D.* 's receipt of Ladies III Exhibit 7, which consists of a documentary reconstruction of the applicant's cost estimates, as a confusing "hodgepodge of information." Walter next excepts to the *I.D.* 's conclusion that the TNB letter represented the bank's intention to loan Ladies III $250,000. Walter points out that Mrs. Phillips never talked to the banker, Brian Williams, that Williams' letter never set forth the specific terms of repayment, that the limit of Williams' lending authority was $30,000, and, that TNB never conducted a creditworthiness study on Mrs. Phillips. In view of these alleged deficiencies, Walter claims that the *I.D.* impermissibly placed the burden of proof on the financial issues on Walter. Lastly, with regard to his motion to enlarge issues, Walter raises the TNB letter -- specifically, Mrs. Phillips' husband's obtaining of the letter -- in claiming that an issue should have been added to determine whether Royce Phillips was a real-party-in-interest in the Ladies III application. In this regard, Walter asserts that Shirlee Phillips is only "a homemaker," that Mr. Phillips paid $9,250 in seed money into the application, and that Mr. Phillips had a prior relationship with Barbara Hoy's husband, Wally Hoy.

6. In its reply, Ladies III states that Walter's revised cost estimates are based on documents not even relied upon by Ladies III for its final estimate, but merely used by Ladies III as part of the "budgeting process" and provided as a direct case exhibit. Ladies III also denies that it ever intended to purchase outright its equipment or tower site. In sum, Ladies III decries Walter's efforts to "microscopically flyspeck [its] cost estimates on a line-by-line basis." Specifically regarding the TNB letter, Ladies III states that Mrs. Phillips asked her husband to contact the bank since they were living apart and Mr. Phillips lived in Nashville where the TNB was located. Further, Ladies III points to banker Williams' familiarity with the Phillips' family financial situation. Lastly, in opposing a real-party-in-interest issue, Ladies III states that neither the husband of Mrs. Phillips nor Mrs. Hoy will have a role in the station and notes that Mrs. Hoy is an experienced broadcaster in her own right.

7. At oral argument on July 13, 1990, the Board expressed concern as to what, if anything, Williams considered before issuing the TNB loan letter. To that end, by *Memorandum Opinion and Order*, FCC 90R-82, released September 18, 1990, the Board directed Ladies III to submit all financial information, including any personal guarantees or indications of collateral, concerning the Phillipses which it submitted to Williams before he issued the August 12, 1987 TNB letter. We also asked for the same type of information that Ladies III provided to obtain its other $250,000 loan letter. Finally, the Board directed Ladies III to explain whether the real estate broker it dealt with when it proposed a new site on November 12, 1987 was authorized to lease the amended tower site to Ladies III.

8. Ladies III complied with our request on October 19, 1990. First, it submitted a declaration from TNB vice-president Brian Williams, in which he states that he issued his August 12, 1987 bank letter after reviewing the Phillips' joint tax returns and Mr. Phillips' current financial statement. The latter statement indicated a total monthly income of $29,000 and net worth of over $6,000,000, including $328,000 in cash. Williams also stated that he considered Mr. Phillips' property to be joint in nature with Mrs. Phillips, since Tennessee is a community property state. Finally, Williams stated that Mr. Phillips had used tax-free bonds for collateral for one of his own past loans and that those same bonds were "probably sufficient" to meet Mrs. Phillips' collateral requirements in connection with her $250,000 loan. Next, Ladies III provided a letter from Booker Moore of the Tallahassee State Bank in which he explains that he issued the August 7, 1987 letter for $250,000 to Barbara Hoy based on "a long standing personal knowledge of your business and financial capabilities." Moreover, Moore states that his updated December 14, 1988 letter (from his new bank) was based on the October 1988 financial statement of Wallace and Barbara Hoy, which indicated a net family worth of over $1,000,000, including $350,000 in appraised commercial acreage. Ladies III's submission also consists of a letter from Moore's successor at the Barnett Bank, Brent Chumbler, who states that, based upon bank records, he assumed that Moore, in 1987, relied upon a 1986 joint financial statement, which also indicates a family net worth of approximately $1,000,000. Finally, Ladies III submitted the declaration of its real estate agent, Maxie Fleming, who stated that, as an owner of the site proposed by Ladies III in November 1987, she told Mrs. Hoy that Ladies III could either lease the site for $2,200 a month, or purchase it for cash or on terms.

9. Commenting on the Ladies III submission, Walter states that Mr. Phillips' financial statement, which the TNB relied upon to issue its $250,000 loan letter to Mrs. Phillips, is apparently not a statement of joint assets. This fact is particularly significant because, according to Walter, Tennessee is not a community property state. Therefore, he states that Mr. Phillips' failure to pledge his specific assets on his wife's behalf vitiates the collateral underlying Williams' loan letter. Walter also criticizes the collateral discussed by Moore in connection with his $250,000 loan letter. Specifically, Walter complains that part of that collateral -- a $350,000 piece of land -- is apparently Mr. Hoy's alone and has not been pledged by Mr. Hoy to Mrs. Hoy. Next, Walter attacks the letter from the real estate agent, claiming that Ladies III originally intended to purchase the amended transmitter site as opposed to renting it. Lastly, in a new motion to enlarge issues, Walter again requests a real-party-in-interest issue, arguing that Ladies III's supplemental financial showing demonstrates that Mr. Phillips "is the breadwinner" in the Phillips family.

DISCUSSION

10. Before certifying in its application that it is financially qualified, a broadcast applicant must have sufficient financial resources to construct the proposed station and operate it without revenue for three months. *PepperSchultz*, 103 FCC 2d 1052 (Rev. Bd. 1986), *rev. denied*, 2 FCC Rcd 1476 (1987), *recon. granted in part*, 3 FCC Rcd 1200 (1988). Inherent in this standard is that the applicant determine what its costs will be and then decide whether it has adequate funds to meet those costs. The Commission has articulated the grounds for making this determination as follows:

> In order to prove reasonable assurance of financial qualifications at the time of certification, the applicant must adduce probative evidence that, prior to certification, it engaged in serious and reasonable efforts to ascertain predictable construction and operation costs.
>
> To establish the availability of funds to meet these estimated expenses, the applicant must provide substantial and reliable evidence showing "sufficient net liquid assets on hand, or committed sources of funds to construct and operate for three months without revenue . . . ."

Northhampton Media Associates, 4 FCC Rcd 5517, 5519 (1989).

11. In evaluating an applicant's financial documentation, cost estimates will be credited as long as they are not "so far below average or beyond a range of reasonableness . . . ." *Kaye - Smith Enterprises*, 98 FCC 2d 675, 677 (Rev. Bd. 1984). As to sources of financing, reasonable assurance of the availability of funds based on a bank letter can be established where a bank has a long-standing business relationship with a borrower and the bank is thoroughly familiar with the borrower's financial situation. *Multi-State Communications, Inc. v. FCC*, 590 F.2d 1117 (D.C. Cir. 1978). Alternatively, in the absence of such a long-term relationship, a borrower need establish that it provided the bank with financial data upon which the bank could review the loan request, that the bank did so, and that the bank is satisfied with the data. *Scioto Broadcasters*, 5 FCC Rcd 5158, 5160 (Rev. Bd. 1990). Further, it must be established that the loan letter adequately discusses the key terms of the loan, such as collateral, interest rate, and repayment terms, and that the institution has a present, firm intention to make the loan, future conditions permitting. *Albert E. Gary*, 5 FCC Rcd 6235, 6236-37 (Rev. Bd. 1990).

12. Utilizing these standards, we are satisfied with the sufficiency of Ladies III's financial qualifications at the time it certified thereto and continuously thereafter. First, as we noted in our *Memorandum Opinion and Order*, FCC 90R-82, released September 18, 1990, at footnote 11, Ladies III's cost estimates were generally credible, based on substantial documentation, and not on their face unreasonably low. The only remaining cost question pertained to the real estate (lease or purchase) costs. In this regard, we reject Walter's claims that Ladies III's costs have escalated to over $1 million, based on its amendment to change transmitter sites and erect its own tower, because the evidence demonstrates that Ladies III always intended to lease rather than purchase the new site. Specifically, the real estate agent's supplemental declaration confirms Barbara Hoy's testimony that the two discussed and agreed upon leasing the property in either late August or early September 1987, which was prior to Ladies III's November 1987 transmitter site change amendment.[1] Moreover, their understanding remains in effect according to the real estate agent, who is also a part-owner of the property. Also, we reject Walter's contention that the self-supporting tower required for Ladies III's amended site would cost $325,000, thus exceeding its budget. Hoy explained, in her testimony, that while she conservatively relied upon this most expensive tower cost estimate, she also expected to purchase it on credit, pursuant to her engineer's advice (Ladies III Exhibit 8). Moreover, her engineer, John Mullaney, confirmed in his testimony that, including this expense, the total cost of the amended proposal would fall between $455,000 and $500,000 (Ladies III Exhibit 8, page 23).[2] In summary, Ladies III satisfied its burden of proving the basis for, and reasonableness of, the cost estimates for its original as well as amended proposals.

13. Turning to the funding of its proposal, we believe that Ladies III has adequately demonstrated the availability of $500,000 in bank loans from the time it filed its application in 1987 to the present. First, with respect to the loan letter obtained by Mrs. Hoy, we note that Walter filed no exceptions to the *ID*'s conclusion that Ladies III had reasonable assurance of obtaining this $250,000 loan. However, after requesting, and obtaining, additional information about this particular loan, we conclude that the nearly identical August 7, 1987 and December 14, 1988 letters to Mrs. Hoy from Booker Moore, representing the Barnett Bank and Tallahassee State Banks, respectively, fall under the rubric of *Multi-State Communications, Inc. v. FCC, supra*. Specifically, Mrs. Hoy had a substantial past banking relationship with Moore involving two of her family's broadcast stations (Ladies III Exhibit 7, page 6). This relationship is confirmed by Moore in his October 17, 1990 letter which Ladies III has submitted as part of its supplemental showing. Moreover, both of Moore's letters discuss the terms of the loan, including interest rates and repayment terms. Although neither of the loan letters discusses collateral, this omission is not significant in these circumstances where Moore reviewed the Hoy family's 1988 financial statement, indicating a net worth of over $1,000,000, before issuing the $250,000 Tallahassee State Bank loan letter.[3] *See Multi-State Communications, Inc. v. FCC, supra* ; *Colonial Communications, Inc.*, 5 FCC Rcd 1967 (Rev. Bd. 1990), *recon. denied*, 5 FCC Rcd 3797 (Rev. Bd. 1990). Finally, it appears that Moore performed a similar review of the Hoys' financial condition before issuing the 1987 Barnett Bank loan letter. Accordingly, Ladies III has demonstrated that it had, and continues to have, reasonable assurance of the $250,000 loan from Moore.

14. The TNB letter presents a closer question. As Walter points out, Brian Williams' August 13, 1987 letter: (1) was procured by Shirlee Phillips' husband who resided at the time in Nashville; (2) was sent to her at her husband's address in Nashville; (3) it failed to specify a repayment schedule; and (4) with regard to collateral, stated it would "be contingent on the exact credit conditions prevailing at the time of such commitment." Also, Williams testified that he did not have authority, on his own, to "commit" the TNB to $250,000 (Tr. 22). Nevertheless, after a careful

review of the record, including Ladies III's Supplement, we are satisfied that the applicant also has established reasonable assurance of the $250,000 loan from the TNB.

15. In seeking supplemental information on the TNB loan, we were primarily concerned with what information, if any, Williams had before him on the Phillips' finances at the time he issued his letter, and how the loan would be collateralized. It now appears, as demonstrated in Ladies III's supplement, that Williams did review Mr. and Mrs. Phillips' 1985 joint tax return (which stated an adjusted gross income of $302,935), as well as Mr. Phillips' current financial statement (which indicated a net worth of over $6,000,000) before issuing the letter. Also, Williams considered Mr. Phillips' property to be joint in nature [4] and was willing, based on the information submitted to him, to indicate reasonable assurance of the funds. As for collateral, Williams states in his October 17, 1990 declaration that tax-free bonds used by Mr. Phillips for a separate, prior loan were "probably sufficient to meet the collateral requirement" for Mrs. Phillips' loan. Significantly, Williams states that "I issued the August 12, 1987 letter to Mrs. Phillips based on my satisfaction with materials I had just considered in reviewing Mr. Phillips' request for a line of credit." In addition, there is no indication from Williams' recent declaration, despite Walter's allegations, that the TNB is no longer willing to make the loan. *CompareRebecca L. Boedker*, 5 FCC Rcd 2855 (Rev. Bd. 1990) (bank official confirmed that *no* commitment existed).

16. Walter also illuminates Mr. Phillips' failure to pledge specifically his assets toward his wife's loan, as well as the absence of finite terms of repayment in the TNB letter. Regarding the first, Walter is correct that Mr. Phillips, on the record to date, has not explicitly pledged his assets to be used as a basis for the loan. On the other hand, Williams states that Mr. Phillips freely agreed to provide his financial statement to the bank in connection with Mrs. Phillips' loan request, knowing full well the purpose of the submission. Thus, in the absence of probative evidence to the contrary, we will not infer that Mr. Phillips has qualified TNB's consideration of the assets reviewed by Williams in considering a potential loan. *Compare, e.g., Marlin Broadcasting, of Central Florida, Inc.*, 4 FCC Rcd 7945, 7947 (Rev. Bd. 1989), *recon. denied*, 5 FCC Rcd 322 (Rev. Bd. 1990), *review denied*, 5 FCC Rcd 5751 (1990), *recon. dismissed*, FCC 90-409, December 12, 1990) (no reasonable assurance where requested financial data was not provided to bank). While we recognize the potential for abuse, and would enjoin applicants relying in whole or part on a spouse's assets to affirmatively show spousal assent for both the consideration and use of those assets by the bank, *see, e.g., Colonial Communications, Inc., supra*, we believe that, in the absence of any precedent to the contrary, where an applicant submits a spouse's assets for bank loan application proposes, the question of whether to rely upon those assets in considering the loan is primarily a question for the bank. *George E. Cameron, Jr. Communications*, 71 FCC 2d 460, 464 (1979) (absent any indication that spouse objects to use of joint funds, Commission presumes that funds are available). [5] Here, the bank relied upon Mr. Phillips' assets in contemplating a loan to Mrs. Phillips; and Mr. Phillips, according to Williams, was fully aware of the purpose of the submission of his assets to the bank, and has not indicated to the bank any reserve with respect thereto. Absent an indication to the contrary, we will not presume a reservation where a spouse voluntarily assents to a referral of personal assets to a bank for loan consideration purposes.

17. Next, we do not believe that the absence of express repayment terms in the TNB loan letter is, standing alone, a fatal deficiency. Aside from the question of collateral, which Williams discusses in his October 1990 declaration, virtually all of the factors we discussed in *Scioto Broadcasters, supra*, are expressly present in Williams' 1987 letter. Specifically, the letter: (1) identifies the borrower; (2) indicates the amount of the loan; (3) identifies the specific use of the proceeds; (4) specifies a particular interest rate; and (5) identifies specific conditions for final approval. While it is axiomatic that there can be no reasonable assurance of the availability of financing where virtually none of the basic terms are present in a bank letter, including repayment terms, interest rate and required collateral, *see Albert E. Gary, supra*, the absence of a repayment period in the context of this case is more akin to a technical deficiency, and certainly does not establish that the letter is a meaningless accommodation. *See Mableton Broadcasting Co., Inc.*, 5 FCC Rcd 6314, 6322 (Rev. Bd. 1990), quoting *Orange Nine, Inc.*, 7 FCC 2d 788, 793 (1967) (technical infirmity in bank letter susceptable to *pro forma* amendment). In view of the totality of the circumstances regarding the TNB loan described above, which otherwise indicates reasonable assurance, we conclude that the absence of this single term in the loan letter does not, by itself, destroy "reasonable assurance" of the loan. *See generally, KFOX, Inc.*, 5 RR 2d 32, 37 (Rev. Bd. 1965) (absence of repayment terms not necessarily fatal to reasonable assurance).

18. Nor, as final matter, is Williams' inability to make a legally binding commitment beyond $30,000 fatal to a claim of reasonable assurance. The Commission does not require a final commitment by a bank to make a loan, but instead requires only that an applicant obtain reasonable assurance that the loan will be made. *Las Vegas Valley Broadcasting v. FCC*, 589 F.2d 594, 599-601 (D.C. Cir. 1978). Unlike the situation in *Pontchartrain Broadcasting Company, Inc.*, 4 FCC Rcd 5245, 5247 (Rev. Bd. 1989), where the lending limit of the financial institution itself was a subject for inquiry, and obviously undercut the efficacy of even a tentative approval, Walter has here raised no question regarding any limit on the TNB's ability to make the $250,000 loan. [6] *Compare California Broadcasting Corp.*, 2 FCC Rcd 4175, 4196 n.22 (Rev. Bd. 1987) ($1.5 million bank loan letter "worthless" where *bank's* lending limit was $300,000), *review denied*, FCC 90-425, released January 16, 1991; *also compare CBS, Inc.*, 49 FCC 2d 1214, 1228-29 (Rev. Bd. 1974) (loan commitment in excess of *bank's* "statutory limitations" not credited); *KIST Corp.*, 99 FCC 2d 174, 178-181 (Rev. Bd. 1984) (same; subsequent history omitted).

19. In sum, we are satisfied that Ladies III has established that the TNB reviewed Phillips' financial needs and qualifications, that the TNB considered how the loan could be collateralized, that the tentative terms of the loan for the most part have been specified, and that the TNB has a present firm intent to make the loan, subject to its future review.

20. One last matter needs to be addressed: Walter's renewed call for a real-party-in-interest issue. In support thereof, Walter points to Mr. Phillips' dominant financial position in the Phillips household, his assistance in obtaining the loan letter from Williams, and his prior

unspecified relationship with Barbara Hoy's husband. These factors, however, fail to warrant specification of an issue to determine whether Mr. Phillips is an undisclosed party in the Ladies III application. As noted by Ladies III, the test for determining whether an individual is a real-party-in-interest is whether that person owns or will be in an actual position to own or control the station. *RKO General, Inc.*, 4 FCC Rcd 4679, 4695 (Rev. Bd. 1989). Specifically, such an issue is not raised simply because one spouse assists another spouse with financing. *Richard P. Bott, II*, 4 FCC Rcd 4924, 4929 (Rev. Bd. 1989), *review denied*, 5 FCC Rcd 2508 (1990); *High Sierra Broadcasting, Inc.*, 96 FCC 2d 423 (Rev. Bd. 1983), *review denied*, 56 RR 2d 1394 (1984), *recon. denied*, 57 RR 2d 1483 (1985), *aff'd* 784 F.2d 1131 (D.C. Cir. 1986) (Table). Here, the record establishes that Mr. Phillips contacted Williams on her behalf simply because both were located in Nashville while Mrs. Phillips was not. Also, she testified that Mr. Phillips contacted Williams at her express request. Further, in a November 24, 1990 declaration, Mr. Phillips stated that he has no ownership interest in the application and plans no role in the proposed station. In addition, Walter's bare allusion to some past relationship between the husbands of Mrs. Phillips and Mrs. Hoy establishes nothing.[7]

21. ACCORDINGLY, IT IS ORDERED, That Ladies III's October 19, 1990 Supplement IS ACCEPTED; Walter's Renewal of Motion to Enlarge Issues IS DENIED; the application of A. P. Walter, Jr. (File No. BPH-870824MS) IS DENIED; and the application of Ladies III Broadcasting, Inc. (File No. BPH-870824MV) for a construction permit for a new FM station at Panama City Beach, Florida IS GRANTED.

FEDERAL COMMUNICATIONS COMMISSION

Norman B. Blumenthal
Member, Review Board

FOOTNOTES

[1] Based on a letter, which is not in the record, stating that the real estate agent will sell the property. Walter contends that Hoy originally intended to purchase the property for $225,000 cash. However, Ladies III has demonstrated that while purchasing was an option, there existed an oral agreement to lease. Moreover, this oral agreement is confirmed by Ladies III's written financial plan and budget. Ladies III Exhibit 7, page 115.

[2] Mullaney testified that a down payment of 20 to 25 percent would be required to purchase the tower on credit. Since Ladies III's current cost estimate is $405,000, an additional $81,000 (25% of $325,000) would still keep its expenses under $500,000.

[3] Thus, even ignoring the $350,000 in commercial acreage attacked by Walter as belonging only to Mr. Hoy, the 1988 financial statement indicates a net worth of approximately $650,000. In any event, Mrs. Hoy testified that her husband indicated to the bank that this acreage would be pledged (Tr. 86).

[4] Nor were we troubled by Walter's statement that Tennessee is not a community property state. As we have often stated, such questions of state law are generally not determinative of a broadcast applicant's qualifications. *See, e.g., Richard P. Bott, II*, 4 FCC Rcd 4924, 4929 (Rev. Bd. 1989).

[5] *CBS, Inc., infra* para. 18, a Board decision decided five years prior to *Cameron*, is not controlling on this point. Even there, the evidence did not indicate whether the spouses would assent to a purchase of stock in the applicant, a condition of any bank loan. *See* 49 FCC 2d at 1229. No such condition is present here.

[6] In assessing reasonable assurance, the Board is of course, aware that formal approval by a bank's loan committee (or some similar internal overview) is generally a prerequisite to a *final* loan agreement; at the application stage we demand no such formal agreement. *Las Vegas Valley, supra.*

[7] The Board has just been advised that Walter Hoy died on January 26, 1991. This does not effect our decision.

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 91-12

In re Applications of

JOHN D. BOMBERGER (hereafter "Bomberger")	File No. BPH-891026MC
SKYLINE RADIO, INC. (hereafter "Skyline")	File No. BPH-891026MD
LEO M. BERNSTEIN (hereafter "Bernstein")	File No. BPH-891026ME
JEFFREY D. SOUTHMAYD (hereafter "Southmayd")	File No. BPH-891026MP
OSCAR HAYNES (hereafter "Haynes")	File No. BPH-891026MQ
COMMONWEALTH AUDIO VISUAL ENTERPRISES, INC. (hereafter "CAVE")	File No. BPH-891026MT

For Construction Permit
for a New FM Station
in New Market, Virginia
Channel 277A (103.3 MHz)

HEARING DESIGNATION ORDER

Adopted: January 25, 1991; Released: February 12, 1991

By the Chief, Audio Services Division:

1. The Commission has before it the above-captioned mutually exclusive applications for a new FM station.

2. *Preliminary Matters.* Bernstein has filed a petition to deny or dismiss Bomberger's application. The petition alleges that Bomberger's application violates Section 73.211 (b)(1) of the Commission's Rules by proposing an antenna height above average terrain (HAAT) in excess of the 100 meters prescribed by this rule section. Specifically, Bernstein claims that, "Bomberger has impermissibly utilized a twenty-four radial method" to compute its antenna's HAAT rather than the eight radial method stipulated in Section 73.313 (d)(1) of the Commission's Rules. When the latter method is used, Bernstein states "Bomberger's application would specify height above average terrain of 102.3 meters, which, when combined with the proposed power of 6.0 kilowatts, exceeds the limitations in Commission Rule 73.211 (b)(1) for a Class A station." However, the Commission approved the use of twenty-four radials in the *Report and Order* in General Docket 84-705, 57 RR 2d 415 (released December 10, 1984). Therefore, Bromberg's methodology of measurement is correct, his antenna's proposed HAAT complies with the Commission's Rules and his application was properly found acceptable for filing. Accordingly, Bernstein's petition to deny or dismiss will be denied.

3. *CAVE.* The Commission requires that if there will be five or more fulltime station employees, the applicant must complete and file Section VI of Form 301 and supply a statement detailing hiring and promotion policies for women and each minority group whose representation in the available labor force is five percent or greater in the proposed service area. Although CAVE filed such a statement, it failed to list examples of minority and women's organizations, employment referral services, educational institutions and media it proposes to use for recruitment purposes. Accordingly, CAVE will be required to file an amended EEO program with the presiding Administrative Law Judge, or an appropriate issue will be specified by the Judge.

4. *Other Matters.* Data submitted by the applicants indicate there would be significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue for the purpose of determining whether a comparative preference should accrue to either of the applicants.

5. Except as may be indicated by any issues specified below, the applicants are qualified to construct and operate as proposed. Since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

6. Accordingly, IT IS ORDERED, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications ARE DESIGNATED FOR HEARING IN A CONSOLIDATED PROCEEDING, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, better serve the public interest.

2. To determine, in light of the evidence adduced pursuant to the specified issues, which of the applications should be granted, if any.

7. IT IS FURTHER ORDERED, That the petition to deny or dismiss filed by Bernstein against Bomberger IS HEREBY DENIED.

8. IT IS FURTHER ORDERED, That within 30 days of the release of this Order, CAVE shall submit Section VI information in accordance with the requirement of Section 73.2080(c) of the Commission's Rules to the presiding Administrative Law Judge.

9. IT IS FURTHER ORDERED, That a copy of each document filed in this proceeding subsequent to the date of adoption of this Order shall be served on the counsel of record in the Hearing Branch appearing on behalf of the Chief, Mass Media Bureau. Parties may inquire as to the identity of the counsel of record by calling the Hearing Branch at (202) 632-6402. Such service shall be addressed to the named counsel of record, Hearing Branch,

Enforcement Division, Mass Media Bureau, Federal Communications Commission, 2025 M Street, N.W., Suite 7212, Washington, D.C. 20554. Additionally, a copy of each amendment filed in this proceeding subsequent to the date of adoption of this Order shall also be served on the Chief, Data Management Staff, Audio Services Division, Mass Media Bureau, Federal Communications Commission, Room 350, 1919 M Street, N.W., Washington, D.C. 20554.

10. IT IS FURTHER ORDERED, That, to avail themselves of the opportunity to be heard, the applicants and any party respondent herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for hearing and to present evidence on the issues specified in this Order.

11. IT IS FURTHER ORDERED, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

FEDERAL COMMUNICATIONS COMMISSION

W. Jan Gay, Assistant Chief
Audio Services Division
Mass Media Bureau

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 91-20

In re Applications of

SAM WIDGE ADVERTISING LIMITED PARTNERSHIP (hereafter "Widge") File No. BPH-890713MI

DARRELL E. BAUGUESS (hereafter "Bauguess") File No. BPH-890713ML

SUZANNE M. WILSON (hereafter "Wilson") File No. BPH-890713MH (PREVIOUSLY RETURNED)

For Construction Permit
for a New FM Station on Channel 264C
in Wallace, ID

HEARING DESIGNATION ORDER

Adopted: January 25, 1991; Released: February 12, 1991

By the Chief, Audio Services Division:

1. The Commission has before it the above-captioned mutually exclusive applications for a new FM station.

2. Data submitted by the applicants indicate there would be significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue for the purpose of determining whether a comparative preference should accrue to any of the applicants.

3. Wilson's application was returned as unacceptable for tender by the Commission in a letter dated January 31, 1990, because it lacked an original signature; Ms. Wilson electronically transmitted her signature on July 13, 1989, the deadline for filing. Her original signature was submitted via overnight courier on July 14, 1989, one day late. On March 2, 1990, Wilson filed a Petition for Reconsideration requesting the reinstatement of her application.

4. Wilson states that the Commission failed to give adequate notice to her regarding (i) the requirement that applicants must submit an original signature for their applications to be considered complete, and (ii) the unacceptability of electronically transmitted signatures where applications are concerned. Further, Wilson states that the Commission accepts pleadings and other such documents signed by electronic transmission by attorneys or individual applicants *pro se*, pursuant to Commission Rule 1.52, so her application should be accepted with an electronically transmitted signature.

5. It is the Commission's requirement that original applications be signed with an original signature. *See The Taber Broadcasting Company of New Mexico*, 4 FCC Rcd 7892 (1989), *Radio South Burlington*, MM Docket 90-73, *SBM Communications*, MM Docket 90-381. The applicable Commission rule states:

> Only the original of applications, amendments, or related statements of fact, need be signed; copies may be conformed . . . .

47 C.F.R. 73.3513(c). It follows that while copies of applications may contain a copy of the applicant's signature, the original application must have an original signature. It is of critical importance that applicants certify the correctness of the data contained in their applications as of the date of filing; without an original legal signature, the certification may not be a binding legal document subjecting the applicant to the stated penalties for false information.

6. The applicant's argument that the Commission's allowing attorneys to file documents with electronically transmitted signatures should extend to her is inapposite. The Commission, in a *Report and Order* (Released May 2, 1985), amended Section 1.52 of its rules to allow attorneys to file documents with electronically reproduced signatures. Section 1.52 was expressly amended to make this allowance, while section 73.3513 was not amended at that time. It follows, therefore, that, absent such an amendment, only original attorney signatures were permissible on pleadings filed with this agency. Wilson's argument misses the point of the amendments to section 1.52 of the Rules. In view of the importance that applicants certify the correctness of the data in their applications, we will not allow original applications to contain anything but an original signature absent an express amendment of section 73.3513 of the rules. Finally, Wilson demonstrated an understanding of the Commission's original signature requirement when she sent her original signature to her application to the Commission via overnight courier. Thus, she appeared to be aware of the importance of the signature requirement. Accordingly, Wilson's petition for reconsideration will be denied below.

7. The Commission requires that if there will be five or more fulltime station employees, the applicant must complete and file Section VI of Form 301 and supply a statement detailing hiring and promotion policies for women and each minority group whose representation in the available labor force is five percent or greater in the proposed service area. Although Widge has filed such statement, it is deficient. Widge has not listed any suitable sources for the recruitment of women. Accordingly, Widge will be required to file an amended EEO program with the presiding Administrative Law Judge, or an appropriate issue will be specified by the Judge.

8. Widge and Bauguess propose to sidemount their antennae on an existing tower. Our engineering study indicates that this proposal may significantly exceed the ANSI guidelines for human exposure to radio frequency (RF) radiation as outlined in OST Bulletin No. 65 (October 1985). Consequently, we are concerned that Widge and Bauguess may have failed to comply with the envi-

ronmental criteria set forth in the *Report and Order* in GEN Docket No. 79-163, 51 Fed. Reg. 14999 (April 12, 1986). Under the rules, applicants must determine whether their proposals would have a significant environmental effect under the criteria set out in 47 C.F.R. § 1.1307. If the application is determined to be subject to environmental processing under the 47 C.F.R. § 1.1307 criteria, the applicant must then submit an Environmental Assessment (EA) containing the information delineated in 47 C.F.R. § 1.1311. 47 C.F.R. § 1.1307 states that an EA must be prepared if the proposed operation would cause exposure of workers or the general public to levels of RF radiation exceeding specific standards. Since Widge's and Bauguess' proposal may have a significant environmental impact as defined by 47 C.F.R. § 1.1307, it will be required to submit the environmental impact information described in 47 C.F.R. § 1.1311. This study must include the effects of radiation on the surrounding communities. In this regard, if the site is presently fenced in compliance with the guidelines, Widge and Bauguess are required to so state and give the distance from the base of the tower to the fence. Accordingly, Widge and Bauguess will be required to file, within 30 days of the release of this Order, an EA with the presiding Administrative Law Judge. In addition, a copy shall be filed with the Chief, Audio Services Division, who will then proceed regarding this matter in accordance with the provisions of 47 C.F.R. § 1.1308. Accordingly, the comparative phase of the case will be allowed to begin before the environmental phase is completed. *See Golden State Broadcasting Corp.*, 71 FCC 2d 229 (1979), *recon. denied sub nom Old Pueblo Broadcasting Corp.*, 83 FCC 2d 337 (1980). In the event the Mass Media Bureau determines, based on its analysis of Widge's and Bauguess' Environmental Assessments, that the proposals will not have a significant impact upon the quality of the human environment, the contingent environmental issue shall be deleted, and the Presiding Judge shall thereafter not consider the environmental effects of the proposal. *See* Section 1.1308(d) of the Commission's Rules.

9. The Federal Aviation Administration has determined that the antenna proposed by Bauguess would constitute a hazard to air navigation. Accordingly, an issue with respect thereto will be included and the F.A.A. made a party to the proceeding.

10. Except as may be indicated by any issues specified below, the applicants are qualified to construct and operate as proposed. Since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

11. Accordingly, IT IS ORDERED, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications ARE DESIGNATED FOR HEARING IN A CONSOLIDATED PROCEEDING, at a time and place to be specified in a subsequent Order, upon the following issues:

1. If a final environmental impact statement is issued with respect to Widge and Bauguess in which it is concluded that the proposed facility is likely to have an adverse effect on the quality of the environment, to determine whether the proposal is consistent with the National Environmental Policy Act, as implemented by 47 C.F.R. §§ 1.1301-1319.

2. To determine whether there is a reasonable possibility that the tower height and location proposed by Bauguess would constitute a hazard to air navigation.

3. To determine which of the proposals would, on a comparative basis, best serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the specified issues, which of the applications should be granted, if any.

12. IT IS FURTHER ORDERED, That pursuant to the discussion in paragraphs 3-6, *supra*, Wilson's petition for reconsideration IS DENIED and her resubmitted application IS DISMISSED.

13. IT IS FURTHER ORDERED, That in accordance with paragraph 8 hereinabove, Widge and Bauguess shall submit the environmental assessment required by 47 C.F.R. § 1.1311 to the presiding Administrative Law Judge within 30 days of the release of this Order, with a copy to the Chief, Audio Services Division.

14. IT IS FURTHER ORDERED, That within 30 days of the release of this Order, Widge shall submit Section VI information in accordance with the requirement of Section 73.2080(c) of the Commission's Rules to the presiding Administrative Law Judge.

15. IT IS FURTHER ORDERED, That the Federal Aviation Administration IS MADE A PARTY to this proceeding with respect to the air hazard issue only.

16. IT IS FURTHER ORDERED, That a copy of each document filed in this proceeding subsequent to the date of adoption of this Order shall be served on the counsel of record in the Hearing Branch appearing on behalf of the Chief, Mass Media Bureau. Parties may inquire as to the identity of the counsel of record by calling the Hearing Branch at (202) 632-6402. Such service shall be addressed to the named counsel of record, Hearing Branch, Enforcement Division, Mass Media Bureau, Federal Communications Commission, 2025 M Street, N.W., Suite 7212, Washington, D.C. 20554. Additionally, a copy of each amendment filed in this proceeding subsequent to the date of adoption of this Order shall also be served on the Chief, Data Management Staff, Audio Services Division, Mass Media Bureau, Federal Communications Commission, Room 350, 1919 M Street, N.W., Washington, D.C. 20554.

17. IT IS FURTHER ORDERED, That, to avail themselves of the opportunity to be heard, the applicants and any party respondent herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for hearing and to present evidence on the issues specified in this Order.

18. IT IS FURTHER ORDERED, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

FEDERAL COMMUNICATIONS COMMISSION

W. Jan Gay, Assistant Chief
Audio Services Division
Mass Media Bureau

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 89-66

In re Applications of

BEACH BROADCASTING LIMITED PARTNERSHIP — File No. BPH-870730ML

MANUEL LIMA — File No. BPH-870730MP

For Construction Permit for
New FM Station, Channel 233A,
Long Beach, Mississippi

Appearances

William E. Zimsky, on behalf of Beach Broadcasting Limited Partnership; and *Harold K. McCombs, Jr.*, on behalf of Manuel Lima.

DECISION

Adopted: January 31, 1991; Released: February 12, 1991

By the Review Board: MARINO (Chairman), BLUMENTHAL, and ESBENSEN.

Board Member ESBENSEN:

1. This proceeding currently involves the applications of Beach Broadcasting Limited Partnership (Beach) and Manuel Lima (Lima) for authority to construct a new FM station on Channel 233A in Long Beach, Mississippi. In an *Initial Decision* (I.D.), 5 FCC Rcd 3201 (1990), Administrative Law Judge Edward Luton (ALJ) determined that Beach was the superior comparative applicant and accordingly granted its application.[1] He specifically found that Lima suffered a moderate diversification demerit and that, although both applicants were entitled to 100% quantitative integration credit, Beach's qualitative enhancements outweighed those of Lima. Lima has filed exceptions to these conclusions, and the Board heard oral argument on September 26, 1990.[2] Upon review of the record herein, the Board concludes that the I.D. should be affirmed. Because the only issue before us is the standard comparative issue, we will turn to those aspects of that issue highlighted by the exceptions.[3]

2. *Diversification of Control.* The ALJ assessed a moderate diversification demerit against Lima because Mr. Lima, who is presently the general manager of WKNN (FM), Pascagoula, Mississippi, and WPMO (AM), Pascagoula-Moss Point, Mississippi (radio stations that serve the same radio market as the proposed Long Beach facility), did not make a timely divestiture commitment. Although the last date for filing amendments as of right in this proceeding was October 14, 1987, the ALJ found that Mr. Lima did not commit to terminate his employment until he filed his Integration Statement in June 1989. I.D., paras. 29, 47-48.

3. In his exceptions, Lima argues that because the proposed station will compete directly with WKNN (FM) and WPMO, serving as general manager of those stations is necessarily incompatible with being the licensee of the Long Beach facility. Specifically, Lima asserts, the Commission's multiple ownership rules, *i.e.*, 47 C.F.R. §73.3555(a)(2), prohibit overlap of predicted 3.16 mV/m service contours of commonly owned, operated and controlled FM stations, and furthermore, the Commission's cross-interest policy prohibits a key employee of one station from having an ownership interest in another station in the same market. Finally, Lima argues, the Board has in the past inferred a divestiture commitment, even in the absence of a multiple ownership infraction, in factual circumstances identical to those at bar, citing *Rahu Broadcasting, Inc.*, 56 RR 2d 285 (Rev. Bd. 1984).

4. We will remove the diversification demerit against Lima imposed by the ALJ for two reasons. First, although as a general rule an applicant must make an explicit divestiture pledge of other broadcast interests by the "B" cut-off date in order to avoid a comparative demerit, *see Julia S. Zozaya*, 5 FCC Rcd 6607 (1990) (and cases cited therein), this deadline only applies to information required to be reported in the application form. *See J. T. Parker Broadcasting Corp.*, 5 FCC Rcd 4651 (1990); *Barton Broadcasting Co.*, 104 FCC 2d 785, 788 (Rev. Bd. 1986), *recon. denied*, FCC 86R-58, released September 18, 1986. The application form used by the applicant here does not expressly require the reporting of broadcast employment (although it does require reporting of attributable interests subject to the multiple ownership rules, as well as corporate officerships and directorships, *see* FCC Form 301, (October 1986), Section II, Items 7, 8), and thus Lima's pledge could have been timely submitted on the date comparative statements were required by the ALJ in June 1989. *See Mableton Broadcasting Co., Inc.*, 5 FCC Rcd 6314, 6321 (Rev. Bd. 1990); *Barton Broadcasting Co., supra*. Secondly, even if employment information were required to be reported in the application form, we agree with Lima that the Board, in *Rahu, supra*, did infer divestiture from the fact that the principal in question was employed by a competing station in the same market, and the extreme unlikelihood that she would remain in that position. In the present case, Lima has satisfactorily addressed the competition and geographic proximity rationales which underlie *Rahu*. That is, Lima relies on the ALJ's uncontroverted record finding that WKNN (FM) and WPMO serve the same market as the proposed station, and directly contends that his continued employment there is necessarily incompatible with his ownership and management of the new facility. We agree that on these particular facts Lima may indulge the *Rahu* inference and escape the normal imposition of a demerit. It is therefore unnecessary to address Lima's multiple ownership contentions, particularly as no issue in this regard has been designated or tried, and thus no record basis exists for proper evaluation.[4]

5. *Integration of Ownership and Management.* Beach is a limited partnership with one general partner, Stanley Daniels, who owns a 25% interest, and three limited partners, who each own 25% interests. Daniels proposes to be the full-time general manager of the new station. The ALJ awarded Beach 100% integration credit, I.D.,

paras. 4, 6, 50. Lima challenges this award, arguing that Beach's limited partners are not properly insulated. Specifically, Lima refers to provisions of the Beach Limited Partnership Agreement (Beach Exh. 1, Att.A), which state that no new general or limited partner will be admitted without the written consent of all general and limited partners, that the general partner may not assign or mortgage his partnership interest without consent of the limited partners, and that no salary will be paid to the general or limited partners. Lima also excepts to the ALJ's conclusion that Beach's qualitative enhancements outweigh Lima's. Specifically, Lima contends that his service area residence, although of shorter duration, is equivalent to that of Daniels and should have been given equal weight, and that, with respect to civic participation, the ALJ erred in discounting certain fund-raising activities because Lima did not specify the dates of his participation, and that Lima should have been preferred under this factor. Finally, Lima contends that he should be awarded a more substantial preference for his broadcast experience.

6. We reject these exceptions. First, we believe Beach is entitled to 100% integration credit. The Beach Limited Partnership Agreement expressly provides that the general partner will manage the partnership and that no limited partner will have any material involvement in the management and operation of the proposed station. The specific provisions of the agreement cited by Lima do not, without more, establish that the limited partners will exercise future control or influence over Beach's management. Thus, the provision which allows the general or limited partners to veto the admission of new partners is consistent with the insulation requirement set forth in *Attribution of Ownership Interests*, 97 FCC 2d 997 (1984), *recon. granted in part*, 58 RR 2d 604 (1985), *further recon. granted in part*, 1 FCC Rcd 802 (1986), where the Commission stated that limited partners may be permitted to vote on the admission of new general partners so long as the general partner may veto such admissions. 58 RR 2d at 619; *see also Cotton Broadcasting Co.*, 4 FCC Rcd 1781, 1783 (1989). Furthermore, Lima seriously mischaracterizes the Beach partnership provision requiring Daniels to obtain the limited partners' consent before encumbering his partnership interest as meaning that Daniels would be restricted in borrowing money to finance the enterprise. This is not so, as the provision is plainly intended to protect the limited partners' investments by assuring that the general partner does not, without consent, mortgage or assign his personal partnership interest for his own benefit. *Cf. The Baltimore Radio Show, Inc.*, 4 FCC Rcd 6437, 6439 (Rev. Bd. 1989), *rev. denied*, 5 FCC Rcd 3712 (1990) (provision restricting general partner from converting her personal interest in the partnership into a corporate interest, and provisions limiting the general partner from borrowing from the limited partnership or lending limited partnership funds to a third party without consent, where the latter were intended to protect the limited partners from self-dealing by the general partner, do not conflict with insulation policies). Finally, we disagree with Lima that Daniels' independence will be compromised because the Beach partnership provides that no salaries will be paid to the partners. Lima has pointed to no evidence to support his view that this provision, which appears to relate to the partners' roles *qua* partners, would preclude Daniels from drawing compensation (*e.g.*, in the form of salary or commissions on station sales) in his prominent employee role as general manager of the station. In view of the further partnership provision which entitles the general partner to an equal 25% share of the profits, we reject as purely speculative Lima's contention that the limited partners will be in a position to use the power of the purse to restrict Daniels' operation of the station.[5]

7. We will also affirm the ALJ's award of a local residence preference to Beach. Beach's principal, Daniels, who was born in 1953, is a life-long resident of the service area, and has seventeen years' more residence there than does Lima who, by contrast, has only lived in the service area since 1970. We have previously recognized that even where both applicants have long-term residence (as is the case here), the applicant with considerably more years of residence is entitled to the preference. *See Vacationland Broadcasting Co., Inc.*, 97 FCC 2d 485, 496 (Rev. Bd. 1984) (applicant with sixteen-year advantage awarded preference) (subsequent history omitted). As we did in *Ronald Sorenson*, 5 FCC Rcd 3144, 3145 (Rev. Bd. 1990), we reject the contention here that the applicants should be treated equally because both have lived as adults in the service area, particularly in light of the fact that one is a life-long resident and the other has far fewer years of residency. We also dismiss Lima's reliance on *Jarad Broadcasting Co., Inc.*, 1 FCC Rcd 181, 187 (Rev. Bd. 1986) (subsequent history omitted), as inappropriate because diminution of credit there was essentially based on the fact that the applicant's previous residence during early childhood was too tenuous a basis for continuing knowledge of the needs of the service area.

8. With respect to civic activities, both Daniels and Lima were credited by the ALJ with participation in various civic organizations over a period of years in the proposed service area. The only distinction between the applicants drawn by the ALJ was that Lima failed to establish on the record the duration of his participation in certain claimed activities which he merely listed without explanation in Lima hearing Exh. 4, p. 5. The ALJ struck these activities and we agree with this ruling. Although specific evidentiary burdens of proceeding and proof are not formally designated under the standard comparative issue, the Commission has held many times that any applicant seeking comparative credit bears the burden of non-persuasion insofar as a failure of proof under any aspect of its proposal can only be read adversely to the applicant. *See Julia S. Zozaya, supra* ; *Cuban-American Limited*, 5 FCC Rcd 3781, 3785 (1990). Here, Beach provided more specific and detailed information on the extent of its principal's civic activities than did Lima, and the ALJ was entitled in the comparative context to take this difference into account in his overall evaluation. While both applicants warrant credit for their civic records, we conclude that, based on the ALJ's findings, Beach is slightly preferred.

9. In view of the foregoing, we find that Beach is clearly preferred over Lima on the "fundamental" licensing consideration of local residence, *see Radio Jonesboro, Inc.*, 100 FCC 2d 941, 945 (1985), and is also slightly ahead on civic participation, which is a part of an applicant's local residence background. *See Policy Statement on Comparative Broadcast Hearings*, 1 FCC 2d 393, 396 (1965). Both factors are significant insofar as they indicate a continuing knowledge of and interest in the needs of the community. *Id.* While both Lima and Daniels have broadcast experience, Lima is readily preferred because his experience is greater, but this advantage is "deemed of minor significance", *id.* ; *Northern Sun Corp.*, 100 FCC 2d

889, 892 (Rev. Bd. 1985) (and cases cited therein) ("even maximum credit [for broadcast experience] translates into only a minor or slight preference"), and does not equal or outweigh the two more significant preferences earned by Beach. *See Inlet Broadcasting Co.*, 5 FCC Rcd 3192, 3193 (Rev. Bd. 1990); *Colonial Communications, Inc.*, 5 FCC Rcd 1967, 1969 (Rev. Bd.), *recon. denied*, 5 FCC Rcd 3797 (Rev. Bd. 1990). In short, a grant of Beach's application will better serve the public interest, convenience, and necessity.[6]

10. ACCORDINGLY, IT IS ORDERED, That the motion to re-open the record, filed August 2, 1990, by Beach Broadcasting Limited Partnership, IS GRANTED to the extent indicated herein and IS DENIED in all other respects; and the motion for leave to amend, filed December 27, 1990, by Beach Broadcasting Limited Partnership, IS GRANTED and the amendment IS ACCEPTED; and the motion to dismiss application of Beach Broadcasting Limited Partnership, filed January 8, 1991 by Manuel Lima, IS DENIED, and

11. IT IS FURTHER ORDERED, That the application of Beach Broadcasting Limited Partnership (File No. BPH-870730ML) for authority to construct a new FM broadcast station in Long Beach, Mississippi, IS GRANTED, and the application of Manuel Lima (File No. BPH-870730MP) IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Eric T. Esbensen
Member, Review Board

FOOTNOTES

[1] Badean Media FM Limited Partnership, whose application was denied below, did not timely filed exceptions. Accordingly, its application was dismissed for failure to prosecute by *Order*, 5 FCC Rcd 5166 (Rev. Bd. 1990).

[2] The Board's issuance of its opinion in this relatively uncomplicated proceeding has suffered some delay as a consequence of the post-oral argument conduct of the parties. In the interest of expediting a resolution to this proceeding, the Board afforded the parties one week from the date of the argument to report whether the case could be settled. Although the parties reported by letter dated October 2, 1990, that they had not reached a settlement, they orally requested (and received) several extensions of time to achieve a settlement based on their representations that talks were continuing. These negotiations appeared to bear fruit when, on October 22, the parties reported by letter that they had "agreed in principle" to settle the case, and further, that "[a]ll essential terms have been agreed upon including amount of consideration, payment dates, security, and escrow." The letter further represented that the parties would file their joint request for approval of agreement "within fourteen (14) days." After considerably more than fourteen days had passed, however, without any settlement agreement being filed, or further notification received, counsel was contacted by the Board and orally reported to us that the agreement had collapsed. After repeated requests to counsel for both parties that the Board be formally notified in writing, the parties finally reported by letter on November 19, a full four weeks after their previous letter, that they "had been unable to finalize a settlement agreement." We have described these circumstances in some detail because, as a result, the Board's consideration of this two-party case has been delayed almost a full two months. We trust that the behavior of the parties herein will not serve as a model for future applicants, particularly in light of the strictures of 47 C.F.R. §73.3525, which requires that "within 5 days after entering into the agreement", all parties file "a joint request for approval of such agreement."

[3] On January 8, 1991, Lima filed a motion to dismiss Beach's application. This motion was premised on Beach's December 27, 1990 motion for leave to amend (which Lima opposes). Beach's tendered amendment states that its general partner, Daniels, has agreed to purchase the interests of two of Beach's three limited partners, and to convert those interests into a general partnership interest, in the event Beach is awarded the construction permit. We will accept the amendment and deny the motion to dismiss. First, we disagree with Lima that the amendment will necessitate a financial qualifications issue; this contention is entirely speculative and unsupported by evidence of any kind. Second, we also reject Lima's argument that Beach is impermissibly engaging in a fifty percent change in ownership after grant of its application. Pursuant to Beach's limited partnership agreement, the general partner will manage the partnership and the limited partners will have no involvement in management of the station. Thus, transfer of their interests to the general partner does not affect control of the partnership or require dismissal of the application. *See Anax Broadcasting, Inc.*, 87 FCC 2d 483, 488 (1981) (Transfer of 71% ownership interest from limited partners to general partner did not involve transfer of a controlling interest or require dismissal of the application); *see also Swan Broadcasting Limited*, FCC 90R-122, released January 3, 1991, at para. 12.

[4] In its reply brief, Beach requests that we take official notice of information not in the record published by Arbitron (pertaining to market delineation) and the United States Geological Survey (pertaining to location) in order to establish that Lima's current broadcast employment is in a radio market distinct from Long Beach. (Beach Reply Br. at 5-6, and nn. 3-4) We decline to do so. The ALJ's finding (which Beach is indirectly seeking to challenge) was premised on information in Lima's hearing Exhibit 3, which set forth Mr. Lima's broadcast experience. Beach had a specific opportunity to cross-examine Mr. Lima on this exhibit and on his divestiture pledge (*see, e.g.*, tr. 208-209), but apparently introduced no further evidence pertaining to the Long Beach radio market. In these circumstances, Beach's attempt at this time to introduce new information (by means of official notice) to rebut uncontradicted record evidence comes too late, as it amounts to a request to re-open the record without the usual showing that it be based on newly-discovered evidence that was not available at the time of the hearing. *See Kaye - Smith Enterprises*, 98 FCC 2d 670, 672-673 (Rev. Bd. 1984), *rev. denied*, FCC 85-192, released April 19, 1985. Furthermore, Beach's request is ultimately non-decisional because, whether or not Lima receives a diversification demerit, as the textual discussion will demonstrate, Beach is the preferred applicant under the integration criterion in any event.

[5] On August 2, 1990, Beach moved to re-open the record to submit an "Amended and Re-stated Certificate of Limited Partnership", which was filed with the State of Mississippi on June 21, 1990. Lima opposed this motion on August 7, 1990 on the grounds that Beach had not met the test for re-opening a hearing record (*see* n. 4, *supra*). We agree with Lima and will therefore accept the amended partnership agreement for reporting purposes only in the interests of completeness and accuracy, but will accord this new information no comparative consideration.

[6] In view of the result reached herein, it is unnecessary to consider Beach's contingent exceptions which, in its own words (Contingent Exceptions, 1), were filed "for the sole purpose of reinforcing the ultimate conclusions reached by the Presiding Judge granting the application of Beach."

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 89-544

In re Applications of

HUGHES-MOORE ASSOCIATES, INC.	File No. BPH-870612MC
HERBERT REGENSTREIF	File No. BPH-870615MI
MIDWAY COMMUNICATIONS, LTD.	File No. BPH-870615MT
BELHOUSE & ASSOCIATES, INC.	File No. BPH-870615MV

For Construction Permit for New FM Station, Midway, Kentucky

MEMORANDUM OPINION AND ORDER

Adopted: January 29, 1991; Released: February 12, 1991

By the Review Board: MARINO (Chairman), BLUMENTHAL, and ESBENSEN.

1. Herbert Regenstreif (Regenstreif) has appealed an *Order*, FCC 90M-2868, released September 12, 1990, in which the presiding Administrative Law Judge approved the dismissal of the application of Midway Communications, Ltd. (Midway) for consideration set out in an earlier-filed universal settlement agreement. This action followed the issuance of the Board's *Memorandum Opinion and Order*, 5 FCC Rcd 3694 (Rev. Bd. 1990) (*Remand Order*), reinstating Midway's application and remanding the case for the limited purpose of permitting Midway to participate in the settlement. The question now presented by Regenstreif's appeal, however, is whether Midway timely invoked the Review Board's appellate jurisdiction prior to the entry of the Board's *Remand Order*. On review of the pleadings before us, the Board finds that its jurisdiction was timely invoked, and we affirm the ALJ's ruling.

2. BACKGROUND: Our original *Remand Order*, *supra*, considered Midway's appeal (which had been erroneously labelled "Exceptions") from the ALJ's earlier ruling that both dismissed Midway's application for failing to file a notice of appearance, and disapproved Midway's right to payment pursuant to a universal settlement agreement. *See Memorandum Opinion and Order*, FCC 90M-103, released January 18, 1990. On the merits, we held in our *Remand Order* that in "this situation," where all the parties had agreed to a settlement but one of the parties failed to file a timely notice of appearance, the case "is controlled by *St. Croix Wireless Co.*, 3 FCC Rcd 4073 (1988), and because the settlement agreement is not before us, we remand this matter to the ALJ for action consistent with the Commission's mandate in *St. Croix* ". 5 FCC Rcd at 3694.

3. Both the Board's *Remand Order* and the Separate Statement, 5 FCC Rcd at 3694, noted several procedural defects in Midway's filings. However, the Board found that it had jurisdiction over the appeal because Midway had produced a copy of its "Exceptions" bearing an FCC Mail Section stamp (which then appeared to be dated February 19, 1990), establishing that Midway had, in fact, filed its appeal prior to February 20, 1990, the date mandated by the Commission's Rules for filing such an appeal. 47 CFR §1.302.

4. On remand, the ALJ applied *St. Croix*, and found that Midway was entitled to receive consideration pursuant to the joint settlement agreement, granted the agreement, and terminated the proceeding. The instant appeal of that action now urges that Midway failed to establish that it had filed its appeal on time "on or before the deadline imposed by the Commission's rules, so that the Judge's [original dismissal] ruling became final -- and no longer subject to review by the Board -- [on its own motion] on March 12, 1990. Action by the Board or Judge thereafter was accordingly void *ab initio*. " Appeal p. 8.

5. Since this argument rested on Midway's failure to explain fully how its original pleading was filed, the Board, by letter dated November 14, 1990, directed Midway to provide a full explanation of its assertions as to the February 1990 filing of exceptions. We stated: "We are particularly interested in the representations of counsel as to how the filing was made (*i.e.*, by mail, courier, or personally by the applicant or counsel) and how Midway came to retain possession of the FCC Mail Section stamped original." 5 FCC Rcd 3694.

6. On November 29, 1990, Midway filed a Statement for the Record. A reply was filed by Regenstreif on December 10, 1990.[1] The verified statement by counsel for Midway reviewed the history of the matter from the original filing of the Midway application on June 15, 1987, to the recent Board inquiry. In response to the specific inquiry relating to the filing of Exceptions, counsel stated that "this counsel recalls that they were made in the routine course of business by an overnight courier." Statement at 4. Counsel also asserted that the Board's statement in the *Remand Order* indicating receipt by the Mail Section on February 19, 1990, was incorrect, since the document [Exhibit 13] bears the date stamp of February 1, 1990, at 9:38 a.m. *Id.*, at 4-5. The Statement also noted that (*id.*):

> "This counsel does not know which courier delivered the document, and has requested copies of invoices and bills of lading from his former firm. Additionally, it is noteworthy that although three pleadings were submitted at once, only one bears the date stamp. As far as this counsel knows, Midway does not have the stamped original."

7. Regenstreif replied (at 3-4) that Midway did not proffer a credible explanation "as to how a copy of Midway's pleading was stamped in by the FCC Mail Section and returned to Midway, while all other copies sent to the Commission disappeared and all copies mailed to the

other parties never were received." It also suggested that the Board should afford Midway an opportunity to supplement the record "with the actual stamp-in copy of its Exceptions which bears the original stamp of the Commission's Mail Room." Reply, at note 3.

8. DISCUSSION: We decline to require that Midway further supplement the record with the "actual" or "original" pleading bearing the Commission's Mail Section stamp. On the record before us, no substantial or material questions of fact have been raised about the authenticity of Midway's Exhibit 13 (*a copy* of the relevant pleading bearing the stamp of the Commission's Mail Section). On its face, that Exhibit corroborates counsel's verified statement that the pleading, which is dated "January 31, 1990", was filed by "overnight courier," and was, in fact, stamped "RECEIVED BY" "FCC MAIL SECTION" "Feb. 1 9:38 AM § 90". We have no reason to question the veracity of counsel's verified statement, or the authenticity of the Exhibit, and have not been presented with any evidence or even allegation that the Commission's stamp was altered, misplaced on the document, or forged.[2]

9. Therefore, based on counsel's Statement and the relevant exhibit, we find that Midway's appeal was in fact timely filed with the FCC's Mail Section on February 1, 1990, at 9:38 a.m. This was well before the required February 20, 1990 filing date (and the March 12, 1990 date when the Board would have lost jurisdiction to consider the matter on its own motion. *See* 47 CFR §1.302(b)). Thus, we conclude that the Board did have jurisdiction to act upon Midway's appeal when it entered its *Remand Order*, *supra*, and that, as the Board previously held, this case is controlled by the Commission's *St. Croix* mandate, *supra*.

10. ACCORDINGLY, IT IS ORDERED That the Appeal of Herbert Regenstreiff filed October 1, 1990, IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Joseph A. Marino
Chairman, Review Board

FOOTNOTES

[1] A Statement for the Record was filed on February 4, 1991 by Belhouse & Associates, Inc. which subscribed to Regenstreif's argument.

[2] We do note that the numbers "1 and 9" (Feb. 1 9:38) of the Mail Section Stamp are more prominent, and almost come together, explaining our earlier belief that the pleading had been received on Feb. 19, 1990.

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 89-470

In re Applications of

JOSIE FM LIMITED PARTNERSHIP	File No. BPH-870515MI
BARTREE BROADCASTING	File No. BPH-870515NB
F.E.M. RAY, INC.	File No. BPH-870515NL
PLAYA DEL SOL BROADCASTERS	File No. BPH-870515NX

For Construction Permit for
New FM Station, Channel 281A,
Tucson, Arizona

MEMORANDUM OPINION AND ORDER

Adopted: January 29, 1991; Released: Febraury 12, 1991

By the Review Board: MARINO (Chairman), BLUMENTHAL, and ESBENSEN.

1. Josie FM Limited Partnership (Josie) has appealed *Memorandum Opinion and Order*, FCC 90M-3640, released November 16, 1990 (*Order*), dismissing its application in this case. Administrative Law Judge Edward J. Kuhlmann (ALJ) dismissed its application because, *inter alia*, during prehearing discovery Josie "failed to provide documents which it had been ordered to produce," and, at the hearing, "it failed to make available witnesses for cross-examination about their written testimony on Josie's qualifications." *Id.* paras. 2-8. After reviewing the pleadings in the light of controlling precedent, the Review Board concludes that the ALJ's reasons, independently or in combination, fully justify dismissal of Josie's application. *See Lorraine Walker Arms*, 5 FCC Rcd 7013 (1990), and *Carol Sue Bowen*, FCC 90R-120, released January 3, 1991.

2. Before turning to the specific facts in this case, we briefly review controlling precedent. Since the early 1960s, applicants have been on notice that a broadcast application is subject to dismissal for failure to comply with the presiding officer's prehearing order; *e.g.*, failing to meet an exhibit exchange date, or failing to publish local notice of hearing. *See Reliable Broadcasting Co.*, 25 RR 93 (Rev. Bd. 1963). In the 1980s, the Board cautioned that "[a]bsent unusual or very special circumstances, the public is better served by adherence to reasonable prehearing [and discovery] orders which are designed to simplify or expedite" comparative hearings. *Pan American Broadcasting Co.*, 89 FCC 2d 167, 171 (Rev. Bd. 1982).

3. Subsequently, the Board has consistently affirmed dismissals of applications for failure to produce documents at the discovery stage because "the continuing failure to make documents available effectively denies the opposing parties an opportunity for meaningful cross-examination and to otherwise prepare for the hearing." *V. O. B. Incorporated*, 4 FCC Rcd 6753, 6755 (Rev. Bd. 1989). Similarly, the failure to produce one or more required witnesses for cross-examination on the day of the hearing has resulted in the dismissal of the application. *See Lorraine Walker Arms, supra*; *Local Morgan Hill Radio Associates*, 4 FCC Rcd 2404 (Rev. Bd. 1989). The Commission has not only affirmed such dismissals, but emphasized that the ALJs are granted considerable discretion to conduct hearings in such a manner as to provide new service to the public in the most efficient and expeditious manner, an integral part of the public interest. *Hillebrand Broadcasting, Inc.*, 1 FCC Rcd 419 (1986).

BACKGROUND

4. In response to unopposed motions for production of documents by F.E.M. Ray, Inc. and other competing applicants, Josie was ordered to produce the following documents:

> 1. Documents evidencing the personal financial condition of its partners as of (a) May 15, 1987, the date Josie certified its financial qualifications; (b) as of the date Josie filed its notice of appearance; and (c) as of the date its original limited partners were replaced by a new limited partner;
>
> 2. Documents reflecting the estimated costs of operating Josie's proposed station as of May 15, 1987;
>
> 3. A personal financial statement for William L. Armstrong, the owner of one of Josie's original limited partners, Republic Enterprises ("Republic"), who had testified at his deposition that he personally had committed to fund Republic's commitment to lend Josie $200,000; and
>
> 4. Documents evidencing the conveyance of ownership interests in Josie.

F.E.M. Ray's Opposition, p. 1.

5. After reviewing the record, *Order*, paras. 3-5, *supra*, the ALJ found at para. 8 that:

> Josie failed to produce, in response to two [prehearing] orders, documents which were demonstrated to be material to its qualifications and to its comparative case. In opposing the motion to dismiss, Josie has not explained why it did not oppose the original requests and while it now argues that some of the documents it has not produced are not relevant, it does not make that argument about all the documents not produced. With regard to those it does claim categorically are not relevant, it has not provided a specific response to FEM Ray's showing that they are relevant.

6. Furthermore, Josie was required to produce eight named witnesses for cross-examination after it submitted the direct written case. *Order*, para. 7. The day of the hearing, Josie stated that it could represent that only two

of the eight witnesses would appear. While the other parties did agree that two of those witnesses need not appear if a specific deposition were submitted, *Order* para. 7, four of the required witnesses were missing. Josie was not permitted to go forward with its case by the ALJ because its "principal witnesses would not appear." *Order*, para. 8. The ALJ explained (*id.*):

> [W]itnesses on whom [Josie] relies for demonstrating its financial qualifications have refused, without excuse, to appear. Even if those witnesses who were willing to appear had been heard, the financial qualifications issue would have been incomplete and Josie would have been found unqualified. It would be an abuse of the Commission's processes to have permitted an applicant to submit only the written testimony of witnesses without cross examination. If Josie's position had been accepted, it was apparent that the record would have been too incomplete and unreliable to reach a decision.

7. Josie argues on appeal that the ALJ erred because it: "made a good faith effort to produce and did produce numerous documents. Where Josie did not produce documents, it is because Josie was not able to locate them despite good faith efforts to do so, the documents requested do not exist, or *they are not relevant to any issue.*" Appeal p. 1. (Emphasis added.) Further, Josie concedes that "on the first day of the evidentiary hearing it could not represent that all of its witnesses who were noticed for cross-examination would appear." It argues, however, that it could have proven its financial case with one or two witnesses who were available. Appeal pp. 2-3.

DISCUSSION

8. We agree with the ALJ that Josie, after failing to object to the document production request on relevancy grounds, could not during the discovery stage unilaterally decide which documents to produce and later argue that the documents it did not produce were not relevant. As we have previously held: "Obviously, [such] dilatory conduct revealed by the record, if permitted to continue, would severely limit the usefulness of pre-trial discovery designed to expedite the resolution of the comparative case." *V.O.B. Incorporated, supra.* It is the presiding ALJ who has been authorized to decide which documents are relevant and must be produced at discovery, especially in a case like the present one where the *bona fides* of the applicant's comparative showing is being challenged.

9. Moreover, Josie compounded this fault by its failure at the hearing "to present several key witnesses on whose written testimony it relied." *Order*, para. 6. Josie again ignores the Commission's controlling legal principle that it is the presiding ALJ who is authorized to decide which witnesses *must* be produced for cross-examination. *See Lorraine Walker Arms, supra.* "An ALJ has broad discretion to control the course of the hearing, such as by requiring the presence of sponsoring witnesses, whether or not they are called for cross-examination" by the other parties. *Las Americas Communications*, 1 FCC Rcd 786, 795 (Rev. Bd. 1986). "Cross-examination of proposed integrated principals is *de riguer* in comparative broadcast hearings . . . ." *Id.* Here, the record establishes that Josie's missing witnesses had been requested by the other parties for cross-examination. Since the ALJ had not excused any of the missing witnesses, Josie could not unilaterally decide that they need not attend the hearing. As the Commission recently stated: "No hearing system can function effectively if the parties disregard the presiding officer's lawful [prehearing] orders with impunity." *Lorraine Walker Arms*, 5 FCC Rcd at 7103.

10. In sum, the record supports the ALJ's findings that Josie, in defiance of the ALJ's prehearing orders and guidelines, first, failed to produce "key documents" during discovery, and, second, later at the hearing indicated that "principal witnesses would not appear." These defaults, under past precedent, are sufficient to justify dismissal of its application. Thus, we affirm the ALJ's *Order* and deny Josie's appeal.

11. ACCORDINGLY, IT IS ORDERED That Appeal of Josie FM Limited Partnership, filed November 26, 1990, IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Joseph A. Marino
Chairman, Review Board

Before the
Federal Communications Commission
Washington, D.C. 20554

CC Docket No. 88-2
Phase I

In the Matter of

Filing and Review of Open Network
Architecture Plans

ORDER

Adopted: January 29, 1991; Released: February 12, 1991

By the Commission:

1. The *BOC ONA Order* [1] announced the establishment of a Federal/State Joint Conference (the Conference) pursuant to Section 410(b) of the Communications Act,[2] as an ongoing forum for state/federal cooperation to facilitate the development and implementation of Open Network Architecture (ONA). The Order stated that the Conference members would include the Chairman of this Commission, who will serve as Conference chairman, one additional member of this Commission, and seven state commissioners, one from each BOC region. On May 4, 1990, the Conference was expanded to include one additional federal Commissioner and six additional state Commissioners. [3] The Order also provided that we would appoint members from the state commissions in consultation with the National Association of Regulatory Utility Commissioners (NARUC).

2. A vacancy on the Conference has occurred as a result of the departure of The Honorable Gloria L. Gaylord of the Ohio Public Utilities Commission. NARUC has nominated Commissioner Calvin K. Manshio to fill the vacancy. We hereby appoint The Honorable Calvin K. Manshio, Commissioner of the Illinois Commerce Commission, to serve as a member of the Conference. Henceforth a copy of all filings in these proceedings shall be served on Commissioner Manshio at the following address:

The Honorable Calvin K. Manshio
Commissioner
Illinois Commerce Commission
State of Illinois Center
100 West Randolph Street
Suite 9-100
Chicago, Illinois 60601
(312) 814-2859

3. Accordingly, IT IS ORDERED, pursuant to Sections 4(i)-(j) and 410(b) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i)(j), 410(b), that Commissioner Calvin K. Manshio of the Illinois Commerce Commission IS APPOINTED as a member of the Federal/State Joint Conference convened in this proceeding.

FEDERAL COMMUNICATIONS COMMISSION

Donna R. Searcy
Secretary

FOOTNOTES

[1] Filing and Review of Open Network Architecture Plans, CC Docket No. 88-2, Phase I, 4 FCC Rcd 1, 110, paras. 214-223 (1989) (*BOC ONA Order*), *pets. for recon. pending*; app. for *review pending sub nom., Pacific Bell and Nevada Bell v. FCC*, No. 89-1194 (D.C. Cir.).

[2] 47 U.S.C. § 410(b).

[3] Filing and Review of Open Network Architecture Plans, CC Docket No. 88-2, Phase I, 4 FCC Rcd 4017 (1989) (*May 4 Joint Conference Order*). The Commission increased state membership on the Joint Conference from seven to thirteen members at NARUC's request.

Before the
Federal Communications Commission
Washington, D.C. 20554

In re Application of

CONESTOGA TELEPHONE & TELEGRAPH COMPANY — File No. 22056-CD-P/ML-89

For authority to construct and operate a new one-way paging station in the Public Land Mobile Service on frequency 158.10 MHz at Lebanon, PA

MEMORANDUM OPINION AND ORDER

Adopted: February 7, 1991; Released: February 13, 1991

By the Chief, Mobile Services Division:

I. BACKGROUND AND CONTENTIONS

1. On March 21, 1989, GTE North Incorporated (GTE North) filed a Petition to Deny the captioned application of Conestoga Telephone & Telegraph Company (Conestoga). On April 5, 1989, Conestoga filed an Opposition to the Petition to Deny. For the reasons set forth herein, we deny GTE North's petition.

2. In its petition, GTE North argues that Conestoga's application contains tabulated antenna gain data that are different from those shown on its antenna pattern. It also argues that Conestoga has used non-standard Carey[1] calculations in determining the interference potential to GTE North's co-channel stations at Waterstown and York, Pennsylvania. In this regard, GTE North notes that Conestoga has used antenna heights of less than 100 feet in calculating interference parameters. GTE North contends that the use of such heights is inappropriate because the Carey Report includes only heights of 100 to 5000 feet above average terrain. GTE North argues that if Conestoga's application is approved, GTE North's stations will receive harmful co-channel interference. In its opposition, Conestoga amends its application to conform its engineering exhibits with the antenna gain figures of the antenna pattern in the application.

II. DISCUSSION

3. The Commission has computerized the Carey Report so that the staff can readily make an independent interference calculation when processing applications. The Commission's program has extended the Carey Curves in FCC Report R-6406 to include antenna heights as low as one foot above average terrain. On review of Conestoga's interference study, its application as amended and the staff interference study, we find that Conestoga's application provides protection to GTE North required by Section 22.32(b)(3) of the rules. In addition, we find that Conestoga has used an accepted methodology in conducting its interference analysis.

III. ORDERING CLAUSES

4. ACCORDINGLY, IT IS ORDERED that the Petition to Deny filed by GTE North Incorporated is DENIED.

5. IT IS FURTHER ORDERED that the application of Conestoga Telephone & Telegraph Company (File No. 22056-CD-P/ML-89) is GRANTED.

FEDERAL COMMUNICATIONS COMMISSION

Gregory J. Vogt
Chief, Mobile Services Division
Common Carrier Bureau

FOOTNOTE

[1] FCC Report R-6406, "Technical Factors Affecting the Assignment of Facilities in the PLMS," Carey, Roger B., issued June 24, 1964. This report sets forth the methodology that is to be used to determine the desired-to-undesired field strength ratios at a station's reliable service area contour.

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 89-541

In re Applications

JUAN GALIANO	File No. BPH-871028MA
JOSEPH BAHR	File No. BPH-871028MB
GUILLERMO A. BONET	File No. BPH-871029MH
RENACER BROADCASTERS CORPORATION	File No. BPH-871029MK
OCCIDENTAL BROADCASTING CORPORATION	File No. BPH-871029MM

For Construction Permit for a
New FM Station on Channel 291A
in Hormigueros, Puerto Rico

ORDER

Adopted: February 5, 1991; Released: February 13, 1991

By the Commission:

1. By *Memorandum Opinion and Order*, FCC 90M-426, released March 5, 1990, the ALJ dismissed Juan Galiano's application because he did not demonstrate good cause for his failure to file his notice of appearance and hearing fees on time. The Review Board affirmed the ALJ's action. *Juan Galiano*, 5 FCC Rcd 2446 (Rev. Bd. 1990). Galiano appealed the Board's decision to the Commission, which denied his application for review. *Juan Galiano*, 5 FCC Rcd 6442 (1990). Now before us are: a Petition for Reconsideration filed December 3, 1990 by Juan Galiano and a Joint Opposition to Petition for Reconsideration filed December 18, 1990 by Guillermo A. Bonet and Occidental Broadcasting Corporation, Inc.

2. Where the Commission has denied an application for review, a petition for reconsideration will be entertained only if one or more of the following circumstances is present:

> (i) The petition relies on facts which relate to events which have occurred or circumstances which have changed since the last opportunity to present such matters; or
>
> (ii) The petition relies on facts unknown to petitioner until after his last opportunity to present such matters which could not, through the exercise of ordinary diligence, have been learned prior to such opportunity.

47 C.F.R. § 1.106(b)(2).

3. The only changed circumstances upon which Galiano relies is the decision of the Review Board in *John Spencer Robinson*, 5 FCC Rcd 5542 (1990), released September 4, 1990, which was after Galiano filed his application for review (May 10, 1990) but prior to our denial (released November 1, 1990) thereof.

4. Galiano claims that the Board, in *Robinson*, accepted the applicant's late-filed Notice of Appearance under circumstances sufficently similar to those in the instant case to create an inequitable, inconsistent application of the Commission's rules. Therefore, Galiano contends that the Board's decision in *Robinson* requires that the Commission reinstate his application.

5. Galiano's analysis of the Board's decision is faulty on two essential points that preclude the case's use as a changed circumstance pursuant to section 1.106(b)(2) of the Commission's rules. First, Galiano claims in his petition that *Robinson* was released after the Commission's order in the instant proceeding. Petition for Reconsideration at 2. This is not true. The Board's decision in *Robinson* was released almost two months prior to the release of our order denying Galiano's application for review. *See* paragraph 3, *supra*. Through "the exercise of ordinary diligence," Galiano had sufficient time to discover and to bring *Robinson* to the Commission's attention prior to our decision on the merits of Galiano's application for review. Having failed to do so, Galiano cannot argue successfully that the Board's decision in *Robinson* provides a sound basis for his petition for reconsideration.

6. More importantly, however, Galiano has failed to demonstrate that the mitigating factors that the Board found persuasive in reinstating Robinson's application are replicated in the facts and circumstances surrounding Galiano's late filing in this proceeding.

7. In *Robinson*, the applicant filed his notice of appearance two weeks early in an apparent attempt to save $760 in light of a pending increase in the schedule of filing fees. Due to a set of circumstances not relevant here, his application was returned for failure to file the applicable new fee. By the time he became aware of the return of his application and he was able to refile with the correct filing fee, he was beyond the date set for the filing of notices of appearances and the ALJ dismissed his application.

8. The Board reversed the ALJ and stated the following:

> Given the particular circumstances of this proceeding, *viz*, (1) the timing of the Commission's new fee schedule (*see* 55 Fed. Reg. 19148, published May 8, 1990) (new fees established one day before release of the HDO here); (2) Robinson's undisputed dispatch of his Notice of Appearance nearly two weeks *prior to* the May 29, 1990 deadline; and, (3) his subsequent attempts to comport with the new fee schedule, we believe that equitable considerations call for the reinstatement of his application.

John Spencer Robinson, 5 FCC Rcd at 5544 ¶ 9. Galiano makes no effort whatsoever to show any similarity between his case and the crucial mitigating facts that served as the basis for distinguishing *Robinson* from the Board's practice of upholding dismissal rulings based on late-filed

fees and Notices of Appearance. *See Silver Springs Communications, Inc.*, 3 FCC Rcd 5049 (Rev. Bd. 1988), *review denied*, 4 FCC Rcd 4917 (1989).

9. Instead, Galiano simply claims that, as in *Robinson*, there is nothing in the record that indicates that Galiano attempted to delay the filing of the hearing fee, nor did he attempt to abuse the Commission's processes, engage in "gamesmanship," or seek to garner an unfair advantage (by ascertaining which applicants would pay their fees, file their notices of appearance, and participate further in the hearing process). *See John Spencer Robinson*, 5 FCC Rcd at 5544 ¶ 9. Such a claim avails Galiano nothing because it was not the absence of those circumstances, but, as noted above, the presence of other mitigating factors that provided the basis for the Board's favorable decision in *Robinson*.

10. In light of the above, Galiano's reliance on *Robinson* is unavailing. Galiano has made no showing that would warrant reconsideration under 47 C.F.R. § 1.106(b)(2) and his petition will therefore be denied.

11. ACCORDINGLY, IT IS ORDERED, That the Petition for Reconsideration filed December 3, 1990, by Juan Galiano, IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Donna R. Searcy
Secretary

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 91-16

In re Applications of

SANDRA H. PEARLMAN (hereafter "Pearlman") File No. BPH-891005MD

MCLEAN COUNTY BROADCASTERS, INC. (hearafter "MCB") File No. BPH-891006MW

For Construction Permit for a New FM Station on Channel 254A (98.7 MHz) in Battle Ground, Indiana.

HEARING DESIGNATION ORDER

Adopted: January 29, 1991; Released: February 13, 1991

By the Chief, Audio Services Division:

1. The Commission has before it the above-captioned mutually exclusive applications for a new FM station.

2. *Pearlman*. Pearlman has indicated in her application that she proposes to sidemount her antenna on an existing tower located southwest of Battle Ground. The geographical coordinates of the site are consistently listed and/or plotted throughout the application as: 40° 29' 51" NL, 86° 53' 47" WL. However, in response to Section V-B, Item 3, Pearlman indicated that the supporting structure is the same as that of an application on file with the Commission, specifically BPH-880825MH, Lexington-Fayette, Kentucky. The coordinates listed in the Lexington-Fayette application are: 38° 10' 48" NL, 84° 16' 55" WL. The distance between the two sets of coordinates is 212.5 miles. We do not have air space clearance for the site and tower height specified in Pearlman's application. Accordingly, Pearlman will be required to submit a clarifying amendment with the presiding Administrative Law Judge within 30 days of the release of this Order. In addition, an air hazard issue will be specified.

3. MCB petitioned for leave to amend its application on March 6, 1990. The accompanying amendment was filed after February 5, 1990, the last date for filing minor amendments as of right. Under Section 1.65 of the Commission's Rules, the amendment is accepted for filing. However, an applicant may not improve its comparative position after the time for filing amendments as of right has passed. Therefore, any comparative advantage resulting from the amendment will be disallowed.

4. Section II, Item 6 of FCC Form 301 (June 1989) requires that an applicant specify its address (number, street, city, state) as well as the home address of each of its principals. MCB has not completed Item 6 correctly. MCB's application gives the city and state as the residence address for its principals, David Keister, Kay A. Keister and Jeff Hancock. Accordingly, MCB must submit an amendment which gives all the information required by Section II, Item 6 to the presiding Administrative Law Judge after this Order is released.

5. Except as may be indicated by any issues specified below, the applicants are qualified to construct and operate as proposed. Since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

6. Accordingly, IT IS ORDERED, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications ARE DESIGNATED FOR HEARING IN A CONSOLIDATED PROCEEDING, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether there is a reasonable possibility that the tower height and location proposed by Pearlman would constitute a hazard to air navigation.

2. To determine which of the proposals would, on a comparative basis, best serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the specified issues, which of the applications should be granted, if any.

7. IT IS FURTHER ORDERED, That Pearlman shall submit an amendment clarifying the discrepancy regarding its proposed site as stated in paragraph 2 above to the presiding Administrative Law Judge within 30 days after the release of this Order.

8. IT IS FURTHER ORDERED, That the petition for leave to amend filed by MCB IS GRANTED, and the corresponding amendment IS ACCEPTED to the extent indicated herein.

9. IT IS FURTHER ORDERED, That the Federal Aviation Administration IS MADE A PARTY to this proceeding with respect to the air hazard issue only.

10. IT IS FURTHER ORDERED, That MCB shall submit an amendment which contains the information required by Section II, Item 6 of FCC Form 301, to the presiding Administrative Law Judge within 30 days after the release of this Order.

11. IT IS FURTHER ORDERED, That a copy of each document filed in this proceeding subsequent to the date of adoption of this Order shall be served on the counsel of record in the Hearing Branch appearing on behalf of the Chief, Mass Media Bureau. Parties may inquire as to the identity of the counsel of record by calling the Hearing Branch at (202) 632-6402. Such service shall be addressed to the named counsel of record, Hearing Branch, Enforcement Division, Mass Media Bureau, Federal Communications Commission, 2025 M Street, N.W., Suite 7212, Washington, D.C. 20554. Additionally, a copy of each amendment filed in this proceeding subsequent to the date of adoption of this Order shall also be served on the Chief, Data Management Staff, Audio Services Division, Mass Media Bureau, Federal Communications Commission, Room 350, 1919 M Street, N.W., Washington, D.C. 20554.

12. IT IS FURTHER ORDERED, That, to avail themselves of the opportunity to be heard, the applicants and any party respondent herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for hearing and to present evidence on the issues specified in this Order.

13. IT IS FURTHER ORDERED, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

FEDERAL COMMUNICATIONS COMMISSION

W. Jan Gay, Assistant Chief
Audio Services Division
Mass Media Bureau

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 91-17

In re Applications of

ANNETTE B. GODWIN (hereafter "Godwin")	File No. BPH-891129MF
FERNANDINA BEACH FM LIMITED PARTNERSHIP (hereafter "Limited")	File No. BPH-891129MH
MARTIN A. SECREST (hereafter "Secrest")	File No. BPH-891130MH
(James C. Zink and James C. Knight d/b/a) J & J COMMUNICATIONS OF NORTH FLORIDA (hereafter "J & J")	File No. BPH-891130MI
SAGE BROADCASTING CORPORATION OF JUPITER, FLORIDA (hereafter "Sage")	File No. BPH-891130MK
FIRST COAST BROADCASTING, INC. (hereafter "First")	File No. BPH-891130ML
GALAXY BROADCASTING, LIMITED PARTNERSHIP (hereafter "Galaxy")	File No. BPH-891130MM
FERNANDINA BEACH RADIO PARTNERS (hereafter "FBRP")	File No. BPH-891130MN
EMILY METCALF (hereafter "Metcalf")	File No. BPH-891130MO
MARDIROSSIAN BROADCASTING, INC. (hereafter "Mardirossian")	File No. BPH-891130MP
BROOMECO BROADCASTING, INC. (hereafter "Broomeco")	File No. BPH-891130MR
NORTHEAST FLORIDA RADIO, INC. (hereafter "Northeast")	File No. BPH-891129MG (DISMISSED HEREIN)
(Robert G. Kerrigan and George W. Estess d/b/a) KERRESS BROADCASTING (hereafter "KerrEss")	File No. BPH-891130MJ (DISMISSED HEREIN)

For Construction Permit for a New FM Station on 287A (105.3 MHz) in Fernandina Beach, Florida

HEARING DESIGNATION ORDER

Adopted: January 29, 1991; Released: February 13, 1991

By the Chief, Audio Services Division:

1. The Commission has before it the above-captioned mutually exclusive applications for a new FM station.

2. *Preliminary Matters.* Northeast proposes to place its transmitting antenna on a new tower on the south side of Jasmine Street, 2.4 kilometers southeast of Fernandina Beach. In Section V-B, Item 2 of its application, Northeast lists the coordinates for this tower as 30 degrees-39 minutes-09 seconds North Latitude, 81 degrees-26 minutes-31 seconds West Longitude. According to our analysis of its site map (Exhibit TE-4), the correct latitude is 30 degrees-39 minutes-*19 seconds*. Since there is no evidence within the application as a whole to resolve this discrepancy, it is impossible to determine whether the proposal is in compliance with the Commission's Rules. This data, consistently specified, is critical to the processing of the application. An inconsistent set of coordinates makes it impossible to determine the veracity of the site availability certification, the environmental impact statement, or the information supplied for FAA approval. Further, an inconsistent set of coordinates makes it impossible to determine the distance from the proposed site to other proposed or existing broadcast facilities and to the community of license. Finally, the exact coordinates are necessary in determinations regarding protection to FCC monitoring facilities and to radio quiet zones (*see* 47 C.F.R. § 73.1030), and are essential in staff analysis of an applicant's environmental and electromagnetic effects on nearby communications facilities. Accordingly, North-

east's application must be dismissed as inadvertently accepted for filing.[1] *See, e.g., Steven B. Courts*, 4 FCC Rcd 4764 (1989).

3. Engineering review of KerrEss's application reveals that it fails to meet the spacing requirements of 47 C.F.R. § 73.207 with respect to the reference coordinates for the first-adjacent channel (286C2) allocation for Blackshear, Georgia.[2] Since the Blackshear allocation was effective seven months prior to the filing of KerrEss's application, § 73.207 requires a minimum separation of 106 kilometers between the Blackshear reference coordinates and the site proposed by KerrEss. *See Carolina Broadcasting Co.*, 18 FCC 2d 482 (1969). The instant application proposes instead a spacing of 105.1 kilometers between the two points, and provides no consideration for this short-spacing. [3] Therefore, KerrEss's application must also be dismissed as inadvertently accepted for filing.

4. *Sage*. Section II, Item 6 of FCC Form 301 (June 1989) requires, in pertinent part, that a corporate applicant provide its name and address as well as the home address for its officers and directors. While Sage has listed (in Exhibit 3) its officers, directors and more than 5% shareholders and their community of residence, it has not provided the street address and zip code for each. Accordingly, Sage must submit an amendment which gives all the information required by Section II, Item 6 to the presiding Administrative Law Judge after this Order is released.

5. Sage petitioned for leave to amend its application on October 4, 1990. The accompanying amendment was filed after April 23, 1990, the last date for filing amendments as of right. Under Section 1.65 of the Commission's Rules, the amendment is accepted for filing. However, an applicant may not improve its comparative position after the time for amendments as of right has passed. Therefore, any comparative advantage resulting from the amendment will be disallowed.

6. *First*. First proposes to locate its transmitting antenna on a new tower to be constructed on the south side of Atlantic Avenue, 0.1 miles east of Egan's Creek in Fernandina Beach. While First indicates in Section V-B, Item 20 that its proposal would not have a significant environmental impact, it concedes in Engineering Exhibit EE, at page 6, that "a portion of the proposed site is considered to be wetlands" and that "a preliminary check with the State Department of Environmental Resources and with the U.S. Corps of Engineers indicates that approval is likely." Given this point, we are therefore concerned that First may have failed to comply with the environmental criteria set forth in the *Report and Order* in GEN Docket No. 79-163, 51 Fed. Reg. 14999 (April 12, 1986). Under the rules, applicants must determine whether their proposals would have a significant environmental effect under the criteria set out in 47 C.F.R. § 1.1307. If the application is determined to be subject to environmental processing under the 47 C.F.R. § 1.1307 criteria, the applicant must then submit an Environmental Assessment (EA) containing the information delineated in 47 C.F.R. § 1.1311. 47 C.F.R. § 1.1307(a)(5) states that an Environmental Assessment ("EA") must be prepared if the proposed facilities include construction that "will involve significant change in surface features," including wetland fill, deforestation or water diversion. Since First's proposal may have a significant environmental impact as defined by 47 C.F.R. § 1.1307, it will be required to submit the environmental impact information described in 47 C.F.R. § 1.1311. This study must include a statement as to whether the proposed construction has been a source of controversy on environmental grounds in the local community, a discussion of the environmental and other considerations leading to the selection of this site, the nature and extent of any unavoidable adverse environmental effects, and any alternative sites or facilities that may have been reasonably considered. Accordingly, First will be required to file, within 30 days of the release of this Order, an EA with the presiding Administrative Law Judge. In addition, a copy shall be filed with the Chief, Audio Services Division, who will then proceed regarding this matter in accordance with the provisions of 47 C.F.R. § 1.1308. Accordingly, the comparative phase of the case will be allowed to begin before the environmental phase is completed. *See Golden State Broadcasting Corp.*, 71 FCC 2d 229 (1979), *recon. denied sub nom Old Pueblo Broadcasting Corp.*, 83 FCC 2d 337 (1980). In the event the Mass Media Bureau determines, based on its analysis of First's Environmental Assessment, that First's proposal will not have a significant impact upon the quality of the human environment, the contingent environmental issue shall be deleted, and the Presiding Judge shall thereafter not consider the environmental effects of the proposal. *See* Section 1.1308(d) of the Commission's Rules.

7. *Galaxy*. Godwin has petitioned to deny Galaxy's application, alleging that Galaxy "misrepresented facts when it represented [in its affirmative certification to Section VII] the location of its public inspection file. This petition is essentially a petition to specify issues. Since the Commission's *Report and Order* in re *Revised Procedures for the Processing of Contested Broadcast Applications: Amendments of Part 1 of the Commission's Rules*, 72 FCC 2d 202 (1979), directed the deletion of all issue pleadings in pending cases, the matters raised in Godwin's petition have not been considered. Accordingly, an opportunity to raise any allegations therein will be afforded Godwin post-designation pursuant to 47 C.F.R. § 1.229.

8. *Other Matters*. Attempts to obtain FAA clearance for Godwin, Secrest, Galaxy, Metcalf and Mardirossian through the Commission's Antenna Survey Branch and the applicants have been unsuccessful. Further, no determination has been received from the Federal Aviation Administration as to whether the antennas proposed by Sage, J & J, First and FBRP would constitute a hazard to air navigation. Finally, Limited has indicated in its September 25, 1990 amendment that the FAA has indicated that the applicant's proposal may produce electromagnetic interference to operations at Jacksonville International Airport. Accordingly, an issue with respect to the above will be specified and the FAA made a party to the proceeding.

9. The FM Database indicates that J & J and Broomeco's applications propose transmitting antenna sites short-spaced to a possible upgrade for FM Station WSOS (St. Augustine, Florida) from Channel 288A to Channel 288C3. *See Notice of Proposed Rule Making* in MM Docket 90-164, 5 FCC Rcd 1888 (1990). Therefore, in the event of grant of either J & J or Broomeco's applications, such grant will be contigent upon the Commission's action in MM Docket 90-164.

10. Data submitted by the applicants indicate there would be significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, the areas and populations which would

receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue for the purpose of determining whether a comparative preference should accrue to any of the applicants.

11. Except as may be indicated by any issues specified below, the applicants are qualified to construct and operate as proposed. Since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

12. Accordingly, IT IS ORDERED, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications ARE DESIGNATED FOR HEARING IN A CONSOLIDATED PROCEEDING, at a time and place to be specified in a subsequent Order, upon the following issues:

1. If a final environmental impact statement is issued with respect to First in which it is concluded that the proposed facility is likely to have an adverse effect on the quality of the environment, to determine whether the proposal is consistent with the National Environmental Policy Act, as implemented by 47 C.F.R. §§ 1.1301-1319.

2. To determine whether there is a reasonable possibility that the tower heights and locations proposed by Godwin, Limited, Secrest, J & J, Sage, First, Galaxy, FBRP, Metcalf and Mardirossian would constitute a hazard to air navigation.

3. To determine which of the proposals would, on a comparative basis, best serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the specified issues, which of the applications should be granted, if any.

13. IT IS FURTHER ORDERED, That the applications filed by Northeast and KerrEss ARE HEREBY DISMISSED as inadvertently accepted for filing and the petition filed by Godwin to deny Northeast's application IS DISMISSED as moot.

14. IT IS FURTHER ORDERED, That Sage shall submit an amendment which contains the information required by Section II, Item 6 of FCC Form 301, to the presiding Administrative Law Judge within 30 days after the release of this Order.

15. IT IS FURTHER ORDERED, That the petition for leave to amend filed by Sage IS GRANTED, and the corresponding amendment IS ACCEPTED to the extent indicated herein.

16. IT IS FURTHER ORDERED, That in accordance with paragraph 6 hereinabove, First shall submit the environmental assessment required by 47 C.F.R. § 1.1311 to the presiding Administrative Law Judge within 30 days of the release of this Order, with a copy to the Chief, Audio Services Division.

17. IT IS FURTHER ORDERED, That the petition to deny filed by Godwin against Galaxy's application IS HEREBY DENIED to the extent indicated herein.

18. IT IS FURTHER ORDERED, That the Federal Aviation Administration IS MADE A PARTY to this proceeding with respect to the air hazard issue only.

19. IT IS FURTHER ORDERED, That, in the event of grant of either J & J or Broomeco's application, such grant will be contingent upon the outcome in MM Docket 90-164.

20. IT IS FURTHER ORDERED, That a copy of each document filed in this proceeding subsequent to the date of adoption of this Order shall be served on the counsel of record in the Hearing Branch appearing on behalf of the Chief, Mass Media Bureau. Parties may inquire as to the identity of the counsel of record by calling the Hearing Branch at (202) 632-6402. Such service shall be addressed to the named counsel of record, Hearing Branch, Enforcement Division, Mass Media Bureau, Federal Communications Commission, 2025 M Street, N.W., Suite 7212, Washington, D.C. 20554. Additionally, a copy of each amendment filed in this proceeding subsequent to the date of adoption of this Order shall also be served on the Chief, Data Management Staff, Audio Services Division, Mass Media Bureau, Federal Communications Commission, Room 350, 1919 M Street, N.W., Washington, D.C. 20554.

21. IT IS FURTHER ORDERED, That, to avail themselves of the opportunity to be heard, the applicants and any party respondent herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for hearing and to present evidence on the issues specified in this Order.

22. IT IS FURTHER ORDERED, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

FEDERAL COMMUNICATIONS COMMISSION

W. Jan Gay, Assistant Chief
Audio Services Division
Mass Media Bureau

FOOTNOTES

[1] Godwin's petition to deny Northeast's application, filed June 6, 1990, is therefore dismissed as moot.

[2] The Blackshear reference coordinates are 31 degrees-14 minutes-29 seconds North Latitude, 82 degrees-19 minutes-42 seconds West Longitude.

[3] KerrEss requested processing pursuant to the contour overlap provisions of 47 C.F.R. § 73.215 to afford protection to short-spaced Rule Making proceedings in St. Augustine, Florida (Channel 288C3) and Gainesville, Florida (Channel 287C3), but did not request such processing with respect to the Blackshear reference coordinates. Although it is not of decisional significance, we note that a staff analysis using these provisions indicated that prohibited contour overlap would occur with the Blackshear allotment even were those provisions to be applied.

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 91-19

In re Applications of

Robert A. Benns (hereafter "Benns")	File No. BPH-891108MF
James Edward Price (hereafter "Price")	File No. BPH-891109MD
Teresa G. Bennett (hereafter "Bennett")	File No. BPH-891109ME
Myra Devona Poe (hereafter "Poe")	File No. BPH-891109MF
SML Communications, Inc. (hereafter "SML")	File No. BPH-891109MG
Rainmaker Broadcasting (hereafter "Rainmaker")	File No. BPH-891109MI

For Construction Permit for a New FM Station on Channel 229A (93.7 MHz) in Ringgold, Georgia

HEARING DESIGNATION ORDER

Adopted: January 29, 1991; Released: February 13, 1991

By the Chief, Audio Services Division:

1. The Commission has before it the above-captioned mutually exclusive applications for a new FM station.

2. The applicants below have petitioned for leave to amend their applications on the dates shown. The accompanying amendments were filed after the last date for filing amendments as of right. Under Section 1.65 of the Commission's Rules, the amendments are accepted for filing. However, an applicant may not improve its comparative position after the time for amendments as of right has passed. Therefore, any comparative advantage resulting from the amendments will be disallowed.

APPLICANTS	AMENDMENTS FILED
Benns	November 13, 1990
Rainmaker	October 1, 1990 and November 7, 1990

3. Data submitted by the applicants indicate there would be significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue for the purpose of determining whether a comparative preference should accrue to any of the applicants.

4. Except as may be indicated by any issues specified below, the applicants are qualified to construct and operate as proposed. Since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

5. Accordingly, IT IS ORDERED, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications ARE DESIGNATED FOR HEARING IN A CONSOLIDATED PROCEEDING, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, best serve the public interest.

2. To determine, in light of the evidence adduced pursuant to the specified issues, which of the applications should be granted, if any.

6. IT IS FURTHER ORDERED, That the petitions for leave to amend filed by Benns, and Rainmaker ARE GRANTED and the corresponding amendments ARE ACCEPTED to the extent indicated herein.

7. IT IS FURTHER ORDERED, That a copy of each document filed in this proceeding subsequent to the date of adoption of this Order shall be served on the counsel of record in the Hearing Branch appearing on behalf of the Chief, Mass Media Bureau. Parties may inquire as to the identity of the counsel of record by calling the Hearing Branch at (202) 632-6402. Such service shall be addressed to the named counsel of record, Hearing Branch, Enforcement Division, Mass Media Bureau, Federal Communications Commission, 2025 M Street, N.W., Suite 7212, Washington, D.C. 20554. Additionally, a copy of each amendment filed in this proceeding subsequent to the date of adoption of this Order shall also be served on the Chief, Data Management Staff, Audio Services Division, Mass Media Bureau, Federal Communications Commission, Room 350, 1919 M Street, N.W., Washington, D.C. 20554.

8. IT IS FURTHER ORDERED, That, to avail themselves of the opportunity to be heard, the applicants and any party respondent herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance

stating an intention to appear on the date fixed for hearing and to present evidence on the issues specified in this Order.

9. IT IS FURTHER ORDERED, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

FEDERAL COMMUNICATIONS COMMISSION

W. Jan Gay, Assistant Chief
Audio Services Division
Mass Media Bureau

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 91-18

In re Applications of

CHRISTIAN R. CAGGIANO (hereafter "Caggiano") File No. BPH-890929MI

SOUTH WEBSTER BROADCASTING, INC. (hereafter "Webster") File No. BPH-890929MJ

STEVE HAYES D/B/A HAYES MEDIACOM (hereafter "Hayes") File No. BPH-891004MA

For Construction Permit
for a New FM Station
on Channel 235A (94.9 MHz)
in South Webster, Ohio

HEARING DESIGNATION ORDER

Adopted: January 29, 1991; Released: February 13, 1991

By the Chief, Audio Services Division:

1. The Commission has before it the above-captioned mutually exclusive applications for a new FM station.

2. Attempts to obtain FAA clearance through the Commission's Antenna Survey Branch and the applicant have been unsuccessful. Accordingly, since no determination has been received as to whether the antenna proposed by Caggiano and Hayes would constitute a hazard to air navigation, an issue with respect thereto will be included and the FAA made a party to the proceeding.

3. Data submitted by the applicants indicate there would be significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue for the purpose of determining whether a comparative preference should accrue to any of the applicants.

4. Except as may be indicated by any issues specified below, the applicants are qualified to construct and operate as proposed. Since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

5. Accordingly, IT IS ORDERED, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications ARE DESIGNATED FOR HEARING IN A CONSOLIDATED PROCEEDING, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether there is a reasonable possibility that the tower height and location proposed by Caggiano and Hayes would constitute a hazard to air navigation.

2. To determine which of the proposals would, on a comparative basis, best serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the specified issues, which of the applications should be granted, if any.

6. IT IS FURTHER ORDERED, That the Federal Aviation Administration IS MADE A PARTY to this proceeding with respect to the air hazard issue only.

7. IT IS FURTHER ORDERED, That a copy of each document filed in this proceeding subsequent to the date of adoption of this Order shall be served on the counsel of record in the Hearing Branch appearing on behalf of the Chief, Mass Media Bureau. Parties may inquire as to the identity of the counsel of record by calling the Hearing Branch at (202) 632-6402. Such service shall be addressed to the named counsel of record, Hearing Branch, Enforcement Division, Mass Media Bureau, Federal Communications Commission, 2025 M Street, N.W., Suite 7212, Washington, D.C. 20554. Additionally, a copy of each amendment filed in this proceeding subsequent to the date of adoption of this Order shall also be served on the Chief, Data Management Staff, Audio Services Division, Mass Media Bureau, Federal Communications Commission, Room 350, 1919 M Street, N.W., Washington, D.C. 20554.

8. IT IS FURTHER ORDERED, That, to avail themselves of the opportunity to be heard, the applicants and any party respondent herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for hearing and to present evidence on the issues specified in this Order.

9. IT IS FURTHER ORDERED, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

FEDERAL COMMUNICATIONS COMMISSION

W. Jan Gay, Assistant Chief
Audio Services Division
Mass Media Bureau

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

AT&T COMMUNICATIONS,
Complainant,

v.

NEW ENGLAND TELEPHONE COMPANY AND TELEGRAPH COMPANY and	File No. E-90-14
NEW YORK TELEPHONE COMPANY,	File No. E-90-16
Defendants.	

ORDER

Adopted: February 4, 1991; Released: February 13, 1991

By the Chief, Enforcement Division, Common Carrier Bureau:

1. On October 3, 1989, AT&T Communications (AT&T) filed the above-captioned complaints alleging that defendants' rates for 1988 were unjust and unreasonable in violation of 47 U.S.C. § 201(b). AT&T maintained defendants had overstated their interstate revenue requirements. On January 22, 1991, the parties filed a joint motion to dismiss the complaints with prejudice. The parties state that all claims in the actions have been compromised and settled between the parties, with defendants admitting no liability.

2. We are satisfied that dismissal of the complaints will serve the public interest by eliminating the expenditure of further time and resources of the parties and of this Commission.

3. Accordingly, IT IS ORDERED, pursuant to authority delegated under 47 C.F.R.§ 0.291, that the request for dismissal of the above-captioned complaints IS GRANTED.

4. IT IS FURTHER ORDERED that the above-captioned complaints ARE DISMISSED WITH PREJUDICE and the proceedings ARE TERMINATED.

FEDERAL COMMUNICATIONS COMMISSION

Mary Beth Richards
Chief, Enforcement Division
Common Carrier Bureau

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 90-492

In the Matter of

Amendment of Section 73.202(b), RM-7438
Table of Allotments,
FM Broadcast Stations.
(Baldwyn, Mississippi)

REPORT AND ORDER
(Proceeding Terminated)

Adopted: January 31, 1991; Released: February 14, 1991

By the Acting Chief, Allocations Branch:

1. The Commission has before it for consideration the *Notice of Proposed Rule Making*, 5 FCC Rcd 6392 (1990), issued in response to a petition filed by Magnolia Communications Corp. (petitioner) proposing the substitution of Channel 223A for Channel 240A at Baldwyn, Mississippi. Petitioner also requested modification of its license for Station WESE, Channel 240A, to specify operation of Channel 223A. Petitioner filed supporting comments in which it reaffirmed its interest in the channel, and a request for expedited action. No other comments were received.

2. We believe the public interest would be served by the substitution of Channel 223A for Channel 240A at Baldwyn, Mississippi, since it would allow Station WESE to increase its operation to 6kW, thereby expanding its coverage area. In addition, the substitution will remove the adjacent channel interference that petitioner claims the station currently receives. The substitution can be made in compliance with the minimum distance separation requirements of Section 73.207 of the Commission's Rules at petitioner's specified site.[1] In addition, we are modifying petitioner's license for Station WESE, Baldwyn, Mississippi, to specify operation on Channel 223A.

3. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective **April 1, 1991,** the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED for the community listed below, to read as follows:

Community	Channel No.
Baldwyn, Mississippi	223A

4. IT IS FURTHER ORDERED, pursuant to the authority contained in Section 316 of the Communications Act of 1934, as amended, that the license of Station WESE, Baldwyn, Mississippi, IS MODIFIED to specify operation on Channel 223A in lieu of Channel 240A, subject to the following conditions:

(a) Nothing contained herein shall be construed as authorizing any change in WESE's license, BLH-890719KE, except the channel as specified above. Any other changes, except those so specified under Section 73.1620 of the Rules, require prior authorization pursuant to an application for construction permit (FCC Form 301).

(b) Program tests may be conducted in accordance with the provisions of Section 73.1620 of the Rules, PROVIDED the transmission facilities comply in all respects with license BLH-890719KE, except for the channel as specified above and a license application (FCC Form 302) is filed within 10 days of commencement of program tests.

5. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

6. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

FEDERAL COMMUNICATIONS COMMISSION

Andrew J. Rhodes
Acting Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

FOOTNOTE

[1] The coordinates for Channel 223A are 34-24-57 and 88-41-08.

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 90-490

In the Matter of

Amendment of Section 73.202(b), RM-7394
Table of Allotments,
FM Broadcast Stations.
(Fort Ann, New York)

REPORT AND ORDER
(Proceeding Terminated)

Adopted: January 31, 1991; Released: February 14, 1991

By the Acting Chief, Allocations Branch:

1. Before the Commission is the *Notice of Proposed Rule Making*, 5 FCC Rcd 6397 (1990), issued at the request of Harvest Broadcasting Services (petitioner), proposing the allotment of Channel 253A to Fort Ann, New York, as the community's first local FM service. No comments were filed by the petitioner or any other party expressing a continuing interest in the proposed allotment.

2. As stated in the *Notice*, a showing of continuing interest is required before a channel will be allotted, and absent such an expression of interest, it is the Commission's policy to refrain from allotting the channel. Therefore, since no such interest has been expressed, we shall dismiss the proposal to allot Channel 253A to Fort Ann, New York. *See, e.g., Joshua Tree, California*, 54 FR 18557, May 1, 1989, *Senatobia, Mississippi*, 3 FCC Rcd 4000 (1988), and paragraph 2 of the Appendix to the *Notice*.

3. Accordingly, IT IS ORDERED, That the petition of Harvest Broadcasting Services (RM-7394), requesting the allotment of Channel 253A to Fort Ann, New York, IS DISMISSED.

4. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

5. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

FEDERAL COMMUNICATIONS COMMISSION

Andrew J. Rhodes
Acting Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 90-495

In the Matter of

Amendment of Section 73.202(b), RM-7405
Table of Allotments,
FM Broadcast Stations.
(Saugerties, New York)

REPORT AND ORDER
(Proceeding Terminated)

Adopted: January 31, 1991; Released: February 14, 1991

By the Acting Chief, Allocations Branch:

1. At the request of Peter Moncure (petitioner), the Commission has before it the *Notice of Proposed Rule Making*, 5 FCC Rcd 6349 (1990), proposing the allotment of Channel 225A to Saugerties, New York, as the community's first local FM service. Petitioner filed comments reiterating his intention to apply for the channel, if allotted. No other comments were received.

2. We believe the public interest would be served by allotting Channel 225A to Saugerties, New York, since it could provide the community with its first local FM service. Channel 225A can be allotted to Saugerties in compliance with the Commission's minimum distance separation requirements with a site restriction of 7.4 kilometers (4.6 miles) south to avoid short-spacings to Stations WFLY, Channel 222B, Troy, New York, WRVW, Channel 228A, Hudson, New York, and WHYN-FM, Channel 226B, Springfield, Massachusetts.[1] Canadian concurrence in the allotment has been received since Saugerties is located within 320 kilometers (200 miles) of the U.S.-Canadian border.

3. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective **April 1, 1991,** the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the community listed below, to read as follows:

City	Channel No.
Saugerties, New York	225A

4. The window period for filing applications will open on **April 2, 1991,** and close on **May 2, 1991.**

5. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

6. For further information concerning this proceeding, contact Lesl'e K. Shapiro, Mass Media Bureau, (202) 634-6530.

FEDERAL COMMUNICATIONS COMMISSION

Andrew J. Rhodes
Acting Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

FOOTNOTE

[1] The coordinates for Channel 225A at Saugerties are North Latitude 42-01-00 and West Longitude 73-59-18.

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 90-548

In the Matter of

Amendment of Section 73.202(b), RM-7458
Table of Allotments,
FM Broadcast Stations.
(Centerville, Utah)

REPORT AND ORDER
(Proceeding Terminated)

Adopted: January 31, 1991; Released: February 14, 1991

By the Acting Chief, Allocations Branch:

1. At the request of Radio Property Ventures (petitioner), licensee of Station KBCK(FM), Centerville, Utah, the Commission has before it the *Notice of Proposed Rule Making*, 5 FCC Rcd 6732 (1990), proposing the substitution of Channel 289C for Channel 289C1 at Centerville, Utah, and the modification of its construction permit for Station KBCK(FM) to specify operation on the higher powered channel. Petitioner filed supporting comments reaffirming its intention to modify Station KBCK(FM) to Class C facilities. No other comments were received.

2. We believe the public interest would be served by substituting Channel 289C for Channel 289C1 at Centerville, Utah, since it would enable Station KBCK(FM) to expand its coverage area. Channel 289C can be allotted to Centerville in compliance with the Commission's minimum distance separation requirements and can be used at the transmitter site specified in KBCK(FM)'s construction permit.[1] As proposed, we will also modify petitioner's construction permit for Station KBCK(FM) to specify operation on Channel 289C in accordance with the provisions of Section 1.420(g) of the Commission's Rules.

3. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective **April 1, 1991,** the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the community listed below, to read as follows:

City	Channel No.
Centerville, Utah	289C

4. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the construction permit (BMPH-890728IE) for Station KBCK(FM), Centerville, Utah, IS MODIFIED to specify operation on Channel 289C, in lieu of Channel 289C1, subject to the following conditions:

(a) Within 90 days of the effective date of this *Order*, the permittee shall submit to the Commission a minor change application for a construction permit (Form 301).

(b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620.

(c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental impact statement pursuant to Section 1.1301 of the Commission's Rules.

5. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

6. For further information concerning this proceeding, contact Pamela Blumenthal, Mass Media Bureau, (202) 632-6302.

FEDERAL COMMUNICATIONS COMMISSION

Andrew J. Rhodes
Acting Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

FOOTNOTE

[1] The coordinates for Channel 289C at Centerville, Utah, are North Latitude 40-42-28 and West Longitude 112-07-56.

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 90-491

In the Matter of

Amendment of Section 73.202(b), RM-7387
Table of Allotments,
FM Broadcast Stations.
(Wisconsin Dells, Wisconsin)

REPORT AND ORDER
(Proceeding Terminated)

Adopted: January 31, 1990; Released: February 14, 1991

By the Acting Chief, Allocations Branch:

1. The Commission has before it for consideration the *Notice of Proposed Rule Making*, 5 FCC Rcd 6394 (1990), issued in response to a petition filed by Armada Broadcasting Company, Inc. (petitioner), proposing the substitution of Channel 295A for Channel 296A at Wisconsin Dells, Wisconsin. Petitioner also requests modification of its license for Station WNNO-FM, Channel 296A, to specify operation on the new channel. Petitioner filed supporting comments in which it reaffirms its interest in the channel. No other comments were received.

2. We believe the public interest would be served by the substitution of Channel 295A for 296A at Wisconsin Dells, Wisconsin, since it would allow Station WNNO-FM to increase its operation from three to six kilowatts.[1] The substitution can be made in compliance with the minimum distance separation requirements of Section 73.207 of the Commission's Rules at petitioner's specified site.[2] In addition, we are modifying petitioner's license for Station WNNO-FM, Channel 296A, Wisconsin Dells, Wisconsin, to specify operation on Channel 295A.

3. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective **April 1, 1991,** the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED for the community listed below, to read as follows:

Community	Channel No.
Wisconsin Dells, Wisconsin	295A

4. IT IS FURTHER ORDERED, pursuant to the authority contained in Section 316 of the Communications Act of 1934, as amended, that the license of Station WNNO-FM, Wisconsin Dells, Wisconsin, IS MODIFIED to specify operation on Channel 295A in lieu of Channel 296A, subject to the following conditions:

(a) Nothing contained herein shall be construed as authorizing any change in Station WNNO-FM's license, BLH-6242, except the channel as specified above. Any other changes, except those so specified under Section 73.1620 of the Rules, require prior authorization pursuant to an application for construction permit (FCC Form 301).

(b) Program tests may be conducted in accordance with the provisions of Section 73.1620 of the Rules, PROVIDED the transmission facilities comply in all respects with license BLH-6242, except for the channel as specified above and a license application (FCC Form 302) is filed within 10 days of commencement of program tests.

5. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

6. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

FEDERAL COMMUNICATIONS COMMISSION

Andrew J. Rhodes
Acting Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

FOOTNOTES

[1] *See* MM Docket No. 88-375, 4 FCC Rcd 6375 (1989).

[2] The coordinates for Channel 295A are 43-36-50 and 89-36-26.

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 90-457

In the Matter of

Amendment of Section 73.202(b), RM-7389
Table of Allotments,
FM Broadcast Stations.
(Zolfo Springs, Florida)

REPORT AND ORDER
(Proceeding Terminated)

Adopted: January 31, 1991; Released: February 14, 1991

By the Acting Chief, Allocations Branch:

1. Pursuant to the request of Ted L. Hite (petitioner), the Commission has before it for consideration the *Notice of Proposed Rule Making*, 5 FCC Rcd 6190 (1990), proposing the allotment of Channel 295A to Zolfo Springs, Florida, as that community's first local FM service. Petitioner filed comments restating his intentions to apply for the channel, if allotted. No other comments were received.

2. We believe the public interest would be served by allotting Channel 295A to Zolfo Springs, Florida, in order to provide that community with its first local FM transmission service. Channel 295A can be allotted to Zolfo Springs in compliance with the Commission's minimum distance separation requirements with a site restriction of 14 kilometers (8.7 miles) south of the community.[1] The site restriction is necessary in order to avoid a short-spacing to Station WXXL(FM), Leesburg, Florida.

3. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective **April 1, 1991,** the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED for the community listed below, to read as follows:

City	Channel No.
Zolfo Springs, Florida	295A

4. The window period for filing applications for Channel 295A at Zolfo Springs, Florida, will open on **April 2, 1991,** and close on **May 2, 1991.**

5. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

6. For further information concerning this proceeding, contact Nancy J. Walls, Mass Media Bureau, (202) 634-6530. Questions related to the window application filing process should be addressed to the Audio Services Division, FM Branch, Mass Media Bureau (202) 632-0394.

FEDERAL COMMUNICATIONS COMMISSION

Andrew J. Rhodes
Acting Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

FOOTNOTE

[1] The coordinates for Zolfo Springs are North Latitude 27-22-00 and West Longitude 81-48-00.

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 88-343

In re Applications of

Francisco Resto Torres d/b/a NAGUABO BROADCASTING COMPANY	File No. BPH-861023MA
JORGE G. BLANCO GALDO	File No. BPH-861027ME
REYES RUIZ RIVERA	File No. BPH-861027MF
HECTOR NEGRONI CARTAGENA	File No. BPH-861027MH
EFRAIN ARCHILLA-DIEZ	File No. BPH-861027MI

For Construction Permit for New FM Station, Channel 225A, Naguabo, Puerto Rico

Appearances

Timonthy K. Brady, Esquire, on behalf of Francisco Resto Torres d/b/a Naguabo Broadcasting Company; *Mathew H. McCormick, Esquire*, and *Dennis F. Begley, Esquire*, on behalf of Jorge G. Blanco Galdo; *Forbes W. Blair, Esquire, Marjorie Conner, Esquire*, and *William D. Silva, Esquire*, on behalf of Reyes Ruiz Rivera; *Daniel J. Alpert, Esquire*, on behalf of Hector Negroni Cartagena; *John P. Bankson, Jr., Esquire* and *Susan E. Bladek, Esquire*, on behalf of Efrain Archilla-Diez; and *Gary P. Schonman, Esquire*, on behalf of the Chief, Mass Media Bureau, Federal Communications Commission.

DECISION

Adopted: January 29, 1991; Released: February 19, 1991

By the Review Board: MARINO (Chairman), BLUMENTHAL and ESBENSEN.

Board Member BLUMENTHAL.

1. The Board has before it the *Initial Decision* of Chief Administrative Law Judge Joseph Stirmer in the above-captioned proceeding, 5 FCC Rcd 2062 (1990) (*"I.D."*). It also has before it the exceptions and/or responsive pleadings of Francisco Resto Torres d/b/a Naguabo Broadcasting Company ("NBC"), Jorge G. Blanco Galdo ("Blanco"), Reyes Ruiz Rivera ("Ruiz"), Hector Negroni Cartagena ("Negroni"), and Efrain Archilla-Diez ("Archilla"); and Negroni's motion to reopen the record and amend its application, filed on September 26, 1990. [1]

2. This is a highly complex and bitterly fought case, the outcome of which turns pivotally on several threshold issues concerning the proposed transmitter site locations of all five of the applicants, none of which comply in all details with FCC technical rules. Two rules in particular are at issue here: In locating an FM radio broadcast transmitter site, applicants must meet, *inter alia*, dual siting requirements, one of which dictates that the applicant locate so as to provide at least a minimum strength (70 dBu) signal over the "principal community" to be served. Thus, Section 73.315(a) and (b) of the rules [2] provides (*"Note"* omitted):

> § 73.315 FM transmitter location.
>
> (a) The transmitter location shall be chosen so that, on the basis of the effective radiated power an antenna height above average terrain employed, a minimum field strength of 70 dB above one uV/m (dBu), or 3.16 mV/m, will be provided over the entire principal community to be served.
>
> * * *
>
> (b) The transmitter location should be chosen to maximize coverage to the city of license while minimizing interference. This is normally accomplished by locating in the least populated area available while maintaining the provisions of paragraph (a) of this section. In general, the transmitting antenna of a station should be located in the most sparsely populated area available at the highest elevation available. The location of the antenna should be so chosen that line-of-sight can be obtained from the antenna over the principal city or cities to be served; in no event should there be a major obstruction in this path.

At the same time, FM broadcast applicants must attempt to honor the spacing requirements of Section 73.207 (*"Minimum distance separation between stations"*), so as to minimize objectionable interference to other FM broadcast stations operating elsewhere on that same broadcast frequency (co-channel).[3] In this case, the spacing distance point for Naguabo applicant transmitter site location is 163 kilometers from WTPM (FM), a station also operating on FM broadcast channel 225A at San Juan, Puerto Rico. *See I.D.*, para. 120.[4] While there are many other FCC technical rules to which FM broadcast applicants must pay heed, the combined demands of § 73.315 and § 73.207 mean that, as a practical matter, each applicant here was expected to locate a transmitter site that would (1) provide a strong, listenable (70 dBu) signal within the city boundaries of Naguabo, while (2) not encroaching upon the protected signal contour of San Juan's WTPM (FM).

3. When these instant Naguabo applications reached our processing line, the Commission's engineers discerned compliance problems with the two rules described above. The *Hearing Designation Order ("HDO")*, *supra* note 4, controlling this proceeding reflected that (1) NBC, Blanco, Archilla and Ruiz [5] proposed to be "short-spaced" to WTPM(FM), whereas (of the remaining applicants[6])

Negroni, while "fully-spaced" as against WTPM(FM),[7] augered not to put a minimum strength (70 dBu) signal over Naguabo. 3 FCC Rcd at 4634. In uncommonly lucid and succinct language, the *HDO* defined both the problem and the dynamic interplay created by the two breeds of non-compliant applications before us in this case (*id*):

> In mutually exclusive cases, the Mass Media Bureau will not designate a short-spaced application for hearing unless a material question of fact is raised as to the availability or feasibility of any and all full-spaced sites. *See Clearlake Broadcasting Company*, 47 Fed. Reg. 47931 (1982). In the instant proceeding, the fully-spaced applicants concede (by their negative responses to Section V-B, Item 11 of FCC Form 301) that their proposed sites would not result in a 3.16 mV/m (70 dBU) signal over the entire community of license, without major terrain obstruction. The problem, as described by short-spaced applicant NBC, is that most of the possibly full-spaced sites lie within the Roosevelt Roads Naval Reservation, and "it is quite likely that none of the government's property would be available for a commercial communications facility." Significantly, the Navy has already rejected Cartagena's [Negroni's] proposal to construct a 371-foot tower within one mile of Ostie Field.

The *HDO* continued (*id;* footnotes omitted; emphasis added) [8]:

> *City Coverage/Line of Sight.* Our engineering analysis confirms an inextricable link in this proceeding between an applicant's location and its ability to satisfy the Commission's policy of requiring a minimum signal strength of 70 dBU over 80% of the community of license. *See Letter to Southwest Communications, Inc. from Dennis Williams, Acting Chief, FM Branch*, dated July 16, 1986, citing *John R. Hughes et al.*, 50 Fed Reg. 5679 (1985). *Simply stated, the short-spaced applicants sacrifice spacing for coverage; the fully spaced applicants, coverage for spacing.* Since no fully-spaced applicant has been able to demonstrate (through diffraction studies or other means) compliance with the Commission's 80% standard, a substantial question exists concerning the technical feasibility of their proposals. Accordingly, with a *Clearlake* exception clearly established, inclusion of the short-spaced applicants in the comparative phase of this proceeding is warranted. An issue will be specified to determine if circumstances warrant waiver, where appropriate, of the Commission's spacing and/or coverage rules.

Accordingly, the ALJ heard and decided the waiver issues (§ 73.207) which had been designated in the *HDO* against the "short-spaced" four, and a "principal community" signal strength (§73.315) waiver issue against Negroni.

4. Pursuant to the *HDO* instructions, and after taking evidence on the several waiver proposals necessary to grant any of these (non-compliant) applications, the ALJ: (1) found that "NBC, Blanco and Archilla have selected a common transmitter site that is the *least short-spaced* of the short-spaced sites that are available,"[9] and with the support of the Mass Media Bureau (a party here) granted waivers of § 73.207 to all three (short-spaced by 3.0 km to WTPM (FM)) because "[s]uch waiver will permit the establishment of a *first local outlet* for Naguabo . . . "[10]; (2) found that "Ruiz is not entitled to a waiver simply because he has *not* specified the *least short-spaced* suitable site available," [11] but (unlike the former three applicants) chose instead a site 3.4 km short-spaced to WTPM (FM); and (3) found that[12]:

> While NBC, Blanco, Archilla, and Ruiz have proposed transmitter sites at locations that sacrifice spacing for coverage, Negroni has selected a site that sacrifices coverage for spacing. In this regard, the Findings establish that from Negroni site *no portion (0) percent of the community of Naguabo would receive a signal of 70 dBu intensity because of intervening terrain.*

5. Having determined that only NBC, Blanco and Archilla (who selected a common site) were entitled to waivers of the transmitter site location rules, and thus deemed to be technically qualified (*see* 47 U.S.C. § 308(b)), only these three were compared on the non-basic criteria ordered in the *Policy Statement on Comparative Broadcast Hearings*, 1 FCC 2d 393 (1965) (*"Policy Statement"*). Of these three, the ALJ awarded the permit to Archilla, because only "Archilla receives credit for long-time residence within the proposed service contour and substantial involvement in civic activities." [13]

6. Among the many exceptions filed against the *I.D.* are the primary objections of Ruiz and Negroni directed toward the grant and/or denial of waivers of the two technical rules here at play. Ruiz does not except, *per se*, to the short-spacing waivers of § 73.207 granted to NBC, Blanco and Archilla, so far as they go; but it seeks an identical waiver because it's transmitter site is short-spaced to WTPM(FM) by 3.4 km (2.1 miles), whereas the comparable figure for the common site of the former three is 3 km (1.9 miles). Ruiz argues that the 2/10ths of a mile disparity should not spell the difference between an indulgence to them, and the absolute disqualification of it, on technical grounds. For its part, Negroni (which did not dismiss its application as did several other parties whose site conflicted with § 73.315) excepts to the waiver grants to NBC, Blanco and Archilla, and it submits: (1) that none adequately proved that no shorter-spaced sites were available; and (2) that the ALJ erred in denying it a waiver of § 73.315, notwithstanding that it would place the required 70 dBu signal over *zero* percent of the confines of Naguabo, a massive deficiency it hoped to overcome with an FM translator station operating on a *different* FM frequency (*see* 47 CFR § 74.1201) in the city of Naguabo itself. (*Note:* Despite its persistent contention that there exists no Naguabo transmitter site that could comply simultaneously with both § 73.207 and § 73.315, Negroni filed on September 26, 1990 -- 5 days *after* oral argument before this Board --petitions to reopen and amend its application to show that it actually might nearly comply with § 73.315. We will deal first with its exceptions and *infra*, paras. 18-22, with its fresh petitions.)

7. We commence our review with these primary exceptions to the several waiver rulings of the ALJ, and proceed to discuss (to the degree decisional) the subsidiary transmitter site exceptions as they relate to each respective applicant. We next address an abuse of process charge against Archilla, a basic qualifying matter of "character" under 47 U.S.C. § 308(b). Thereafter, we review the ex-

ceptions to the comparative analysis, in accordance with the 1965 *Policy Statement*, and find that the ALJ correctly applied pertinent precedent in awarding this Construction Permit to Archilla.

I. TRANSMITTER SITE

A. Waiver of Section 73.207

8. In considering the requests of NBC, Blanco, Archilla and Ruiz for waivers of § 73.207, it is useful to adumbrate the legal standards under which such requests are assessed. Initially, and with respect to the generic standard for waivers, it is deeply established that "[a]n applicant for waiver faces a high hurdle even at the starting gate." *WAIT Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969).[14] More particularly with respect to waivers of § 73.207, the Commission has, at various times, indicated: (1) "that applicants proposing short-spaced sites must make a threshold showing that suitable non-short-spaced sites are unavailable"[15] (2) if so, "that less short-spaced sites also must be shown to be unavailable" [16]; and (3) that "the party seeking the waiver must make a 'compelling showing' that sets forth with particularity the facts and circumstances warranting such action."[17]

9. All four of the short-spaced applicants here met the "threshold" unavailability test, and thus their applications were designated for hearing on the waiver issue. *See HDO*, 3 FCC Rcd at 4634 (paras. 2-3). Or, as the ALJ concluded:

> NBC, Blanco, Archilla and Ruiz clearly have satisfied the threshold showing. The Findings show that the only sites that are fully spaced to WTPM(FM) are located either on property belonging to the U.S. Naval Station at Roosevelt Roads, Puerto Rico, and are not available or are situated in areas from which service to Naguabo would be obstructed by intervening terrain. Accordingly, it is concluded that there are no suitable, fully-spaced sites available.

I.D. at para. 122. The ALJ next considered the uncontroverted testimony of Robert Purcell, Archilla's consulting engineer, that NBC, Blanco and Archilla selected "the least short-spaced site available." *Id.*, at para. 123. Finding that "the only way a | *first* | local station could be authorized for Naguabo is to waive Section 73.207 of the Commission's rules," the ALJ determined that the public interest would be served by a waiver for those three. *Id.* (citing *Radio Station WKDO*, 37 RR 2d 1485 (1976)). On the other hand, although Ruiz's site was short-spaced to WTPM(FM) by only 0.4 km more than the common site selected by the former three applicants, the ALJ declined to grant Ruiz a waiver "simply because he has not chosen the least short-spaced site available." *I. D.* at para. 125 (citing *Tri-Valley Broadcasting Co.*, 4 FCC Rcd 4711 (1989); *Megamedia*, 67 FCC Rcd 1527 (1978); *Townsend Broadcasting Corp.*, *supra* note 15). In denying Ruiz a waiver, the ALJ reasoned:

> Here, clearly there is at least one other less short-spaced site available which Ruiz ignored although he knew such a site was available because other applicants had specified it. Rather, Ruiz made no effort to secure that site. Some of the parties argue that the difference between the short spacing of NBC, Blanco, and Archilla on the one hand (3.0 km) and Ruiz on the other hand (3.4 km), is not large and therefore Ruiz should also be granted a short-spacing waiver. But such result would totally ignore the Commission's requirement for waiver that an applicant must show it has selected the least suitable short-spaced site. Ruiz has clearly not done that, and to grant a waiver under these circumstances would render nugatory the Commission's requirement of selecting the least short-spaced site.

I.D. at para. 125."

10. Just as it did before the ALJ, *see id.*, para. 123, Negroni again argues that no applicant here met its burden for a waiver of § 73.207. We reject its arguments for the following reasons. First, Negroni's own site is short-spaced to WTPM(FM) by 1.5 km (albeit a distance considered *de minimis* under more recent case precedent, *see supra* note 7), and its own site is so grossly deficient it places a 70 dBu signal over *zero* percent of Naguabo; second, and based heavily on Negroni's own showing, the *HDO* recognized at the outset the severe difficulty in finding a fully-spaced site for Naguabo (*see* 3 FCC Rcd at 4634); third, Negroni did not controvert in the slightest Archilla's engineering testimony or identify a less short-spaced site (*see I.D.*, para. 124); and, fourth, although Negroni cavils that the subject waiver applicants did not support their claims with such documentary evidence as "affidavits of real estate agents, land owners, or other parties" as to alternative site availability,[18] Negroni's exceptions commit "legal sepuku," *MCI Telecommunications Corp. v. FCC*, No. 89-1382, slip op. at 19 (D.C. Cir. October 23, 1990), since it recognizes that "this case involves an allocation assigned to Puerto Rico, where the terrain has *repeatedly* been described as 'peculiar' or 'unique'."[19] and it yet insists [20]:

> Due to the mountainous terrain in Puerto Rico, a "major obstruction" lies between the proposed transmitter site and Naguabo, Puerto Rico, the proposed city of license. *The only fully-spaced sites at which an applicant could have clear line-of-sight coverage of Naguabo lie upon the United States Naval Station located in Roosevelt Roads, Puerto Rico.* Negroni Exh. 11. A proposal was filed with the Navy Base, and Negroni was notified that the Base *will not* permit him to locate his transmitter upon Navy land. Negroni Exh. 11, Att. 1 at 1. Although there are *other* sites at which line-of-sight coverage could be achieved (*see, e.g.*, the proposals filed by Archilla, Ruiz, Blanco Galdo, and NBC), these sites would be short-spaced with Station WTPM (FM), Aguadilla, Puerto Rico.

In view of the totality of uncontroverted evidence, we agree with the ALJ that NBC, Blanco and Archilla, at least, have chosen the least short-spaced site that will fully cover Naguabo with the requisite signal, and that the public interest militates toward of waiver of § 73.207 that will afford that community its first local transmission service. *Radio Station WKDO*, *supra*, (2+ mile short-spacing necessary for first local FM service).

11. Considering the undisputed impossibility of identifying a fully-spaced site in the difficult topography surrounding Naguabo, the corresponding denial of a waiver to Ruiz in the *I.D.* may seem a harsh result. But,

unlike the Mass Media Bureau below at hearing, we are inclined to support the ALJ's analysis. For all of its other inconsistencies, Negroni is correct that:

> [b]ased on a generation of experience, presumably bad, with *ad hoc* determinations of mileage separations for AM radio transmitters, the agency opted for strict adherence to fixed minimum mileage separation rules.

North Texas Media, Inc., 778 F.2d 28, 31 (D.C. Cir. 1985); *see also Communications Investment Corp. v. FCC*, 641 F.2d 954, 957 n.3 (D.C. Cir. 1981). With only a "few tightly contained exceptions," *North Texas Media*, 778 F.2d at 32, the Commission has hewed mightily to the mileage separation system that protects the FM broadcast band (and the quality fidelity characteristics inherent). Waivers of the embargo of Iraq may be easier to obtain, *see id*; *see also Kenter* ; Negroni Exceptions at 16-22 (and numerous cases cited therein). Where short-spacing is proven absolutely necessary to effect a larger public interest, the ALJ is correct that precedent does require that a waiver applicant demonstrate that it has chosen the " *least* short-spaced site available." *See, e.g., Tri-Valley*, 4 FCC Rcd at 4713 (emphasis added). However, it must be expressed that none of the cases cited by the ALJ or the parties is directly on point, since these rulings generally address the question of whether the applicant has met the *threshold* test for consideration of a waiver, a test that Ruiz (*inter alia*) conquered at the *HDO* stage by showing the likely unavailability of any fully-spaced site. And, saliently, none of the cases referred to us compares the *relative* short-spacing as between applicants, once they have met that *threshold* requirement. By the same token, Ruiz does not deny that it was fully aware of the less short-spaced site readily available to its § 73.207 waiver companions, that it made no effort to secure that site, and it cites to us not a single case in which a waiver has been granted where other applicants have proven with certainty that a less detrimental site is available.[22]

12. Though the Ruiz waiver request presents a very close question, we are reluctant to differ with the result in the *I.D.* We take to heart the plethora of cases cited by the ALJ (and Negroni) vouchsafing the Commission's historic parsimony with short-spacing waivers. The problem with the Ruiz argument (that its site is *almost* as good as the common site selected by the other three) is that it seeks to propel us gradually down an awfully slippery slope. We start with the concrete proposition that our spacing rules are "go/no-go" and that waivers are doled out stringently, *North Texas Media*; *Kenter* ; next, the Commission has already yielded that short-spacing up to 1.5 kilometers is *de minimis*, *see supra* note 7; and, finally, that the *I.D.* has here found, even over Negroni's strong objections, that a 3 kilometer short-spaced site is both available and the "least short-spaced." Ruiz's plea would take us to the next plateau down the gradient where none have tread before, seeking equality, *relatively speaking*, with those proposing what has been demonstrated (satisfactorily we think) as the least short-spaced site. But that is not the standard: the *rule*, requiring a *fully-spaced* site, is the bedrock standard of comparison, and the only proper starting point. The other three applicants have met their strict waiver burden; Ruiz has merely come very close to the apex of the "high hurdle" in its path (so close that in note 63, *infra*, we pause to explain why Ruiz does not prevail over Archilla on comparative grounds, even if we blinked it a waiver of § 73.207). We will not formally disturb the ALJ's denial of a waiver to Ruiz, for his reasons were not insubstantial. *See Thomas Radio Co. v. FCC*, 716 F.2d 921, 924 (D.C. Cir. 1984).

B. Waiver of Section 73.315

13. As indicated above, § 73.315 requires an applicant to show that it will place a 70 dBu signal within the borders of the community of license. Although the Commission has relaxed that standard and will consider constructively compliant an FM application that places the required strength signal over only 80% of the principal community, *see HDO*, 3 FCC Rcd at 4634 (para. 4, and rulings cited therein), four original applicants here were out of compliance with § 73.315, *see id.*, 3 FCC Rcd at 4636 (para. 15), of which all but Negroni have dismissed their defective applications. *See I.D.*, n.1. [23] The ALJ rejected Negroni's waiver request to offset its utter and complete 70 dBu signal shortfall 24/ by use of a (hypothetical) translator station, for which translator Negroni did (and does) not even have an application on file. *See id.*, paras. 128-131.

14. Although, as also prefaced above, Negroni has now filed a thirteenth-hour request to reopen and amend on the belated claim that it has "tentatively" concluded that, *mirabile dictu*, its existing site will place a 70 dBu signal over "most of" Naguabo, we will of fastidiousness affirm the ALJ's denial of a waiver of § 73.315.

15. Whereas Negroni's exceptions iterate that, based upon the best engineering advice (advice Negroni has lately disclaimed as being faulty to point of malfeasance), it very deliberately choose "full-spacing" over full signal coverage of Naguabo, with the caveat that it would apply (if able to do so in the future) for a "translator station operating on the third channel adjacent to the allocation proposed in his application [channel 225A] to rebroadcast the signal from his primary station," thereby to provide a "city grade" signal over Naguabo. [25] (It bears interjecting, however, that Negroni's heroic claim that it prudently decided that the law would favor its shortfall/translator proposal over the others is undercut almost completely by the contention in his untimely amendment petition that, "[b]ecause I was sure that I had selected a combination of tower height and location that would enable my radio station to cover virtually all of Naguabo, I was very surprised when the Federal Communications Commission denied the application because of shadowing."[26] In other words, Negroni lately asserts that its unprecedented legal position throughout this proceeding has been based not upon a bold, creative, sophisticated election, but was instead propelled by a stupid mistake. As the poet inquired: "How sleep the brave . . . ."[27]) Nonetheless, relying heavily on WST E-TV, Inc., 46 RR 2d 1044 (1979) and *Arkansas Education Television Commission*, 45 RR 2d 432 (1979), Negroni asserts that the Commission has viewed translators as a "feasible solution" to signal coverage shortfalls, and it sums up its position that [28]:

> Negroni's proposal satisfies the spirit of each of the policies underlying the Commission's rules, and therefore, his proposal should be recognized as the optimal balancing of the two rules which are conflicting "inextricably" in this case.

16. Apart from the fact that the *HDO, citing* WST E-TV, Inc., monished that reliance on the "unique solution" of a translator was premature in the face of the several short-spacing waiver requests concurrently before it, we reject Negroni's demand for a waiver for any number of reasons. First, not one of the cases Negroni cites in support of allowing a translator "fill-in" of an unserved principal community involved competing applicants proposing a reasonable non-translator solution.[29] In fact, the legal momentum is contra. *Cf. FM Channel Assignments*, 48 RR 2d 1628 (1981) (translator for significant fill-in rejected where better alternative exists). Second, the entire (hypothetical) proposal to utilize a translator is[30]:

> speculative because Negroni has no translator application on file and there is a freeze on such applications (Tr. 1870; *ID* ¶¶ 68, 128); even if Negroni can later file an application, it would be subject to the filing of competing applications, any of which could be granted (Tr. 1870-71; *ID* ¶ 128); and even if he succeeded, his translator would be a secondary service subject to displacement (Tr. 1871-72; *ID* ¶ 128).

Negroni has no translator application on file (and now a negligible chance of such a grant, *see supra* note 30), so its waiver request fails on that basis alone.

17. But even if we assumed, *arguendo*, that Negroni could receive a translator station (or, as it lately offers, a low power booster station [31]), we would not grant Negroni a waiver of § 73.315 on a massive signal strength shortfall, perforce in the face of applicants alternatively proposing short-spacing of greatly less than "massive" porportions. Forthrightly conceding that it has sacrificed coverage for (virtual) full-spacing, the core equation articulated in the *HDO*, Negroni has not rationally explained why the Commission should give priority in favor of a translator (or booster) over the other proposals before us. The disadvantages of a translator are manifest: (1) it operates on a different radio frequency than the main frequency; and (2) it operates on a "secondary" basis, and can be immediately displaced by a primary station elsewhere, *see FM Channel Assignments, supra*, 48 RR 2d at 1632-33, thus leaving Naguabo without a minimum strength signal. It takes no rocket scientist to conclude that the public interest would be much better served, particularly given the formidable terrain problems present, to grant a comparatively modest waiver (3 km short of the required 163 km) of § 73.207 rather than opt for the jury-rigged alternative championed by Negroni alone. Unlike Blanco (which timely amended to the common short-spaced site), Negroni (initially) chose to fight rather than switch, an option within its discretion; but for it to persist in the fight for its patently inferior alternative, without the slightest rational or precedential support for its cause, is now all but frivolous. Given the obvious preferability of the requested waivers of § 73.207 before us to its waiver of § 73.315 (grounded entirely on a purely hypothetical translator (or booster) assist), affirmance of this facet of the *I.D.* is forgone.

C. Negroni Motions to Reopen and Amend

18. No doubt recognizing the futility of the postulate adhered to in its exceptions, Negroni filed, on September 26, 1990, companion petitions to submit new evidence to "correct," it says, both the geographic coordinates it has plotted for its transmitter site and its transmitter tower height. If this is allowed, Negroni might show that "'a city grade signal would indeed occur over most of Naguabo' with any unserved area capable of being reached by means of an on-channel booster."[33] Negroni claims that, if the geographic coordinates of its site are plotted "400 feet south and 2,000 feet east" of where it has for four years claimed its site to be, its antenna tower would be 184 feet higher (AMSL) in the mountains, and its signal might therefore cover "most" of Naguabo (albeit still with the necessary aid of a booster). It further claims that the plotting error, "undetected" until now, "was made by the engineering firm . . . hired to assist with preparing his application, A.D. Ring & Associates, P.C. (now by duTreil, Lundin & Rackleum Inc.)." [34] Opposition pleadings, including those of the Mass Media Bureau, are also before the Board. The record in this case was closed on March 30, 1989.

19. We reject Negroni's petitions and its arguments in support thereof. Negroni properly notes that "compelling circumstances" must be shown for reopening a record, *see WEBR v. FCC*, 420 F.2d 158, 166 (D.C. Cir. 1969), and aptly observes that a party seeking to reopen the record:

> must show that their contentions are based on newly discovered evidence that could not, through the exercise of due diligence, have been discovered earlier and that the new evidence, if true, would affect the ultimate disposition of the proceeding.

Omaha 15, Inc., 4 FCC Rcd 730 (1988); *see also Southeast Arkansas Radio, Inc.*, 61 FCC 2d 72, 73-74 (1976). Because due diligence, central to a request to reopen the record, is but a single tine of the six-prong "good cause" test that must next be passed for the belated amendment of an application once a hearing has commenced, we will move to that test forthwith.

20. Interpreting the "good cause" requirement set forth in 47 CFR § 73.3522(b) for a *post*-hearing designation amendment, *Erwin O'Conner Broadcasting Co.*, 22 FCC 2d 140, 143 (Rev. Bd. 1970), laid out the now-familiar course. An applicant seeking to amend must demonstrate:

> that it acted with due diligence; that the proposed amendment was not required by the voluntary act of the applicant; that no modification or addition or issues or parties would be necessitated; that the proposed amendment would not disrupt the orderly conduct of the hearing or necessitate additional hearing; that the other parties will not be unfairly prejudiced; and that the applicant will not gain a competitive advantage.

In the case of engineering amendments, subsection (b)(1) of § 73.3522 adds the additional test "[t]hat the amendment is necessitated by events which the applicant could not reasonably foreseen (*e.g.* notification of a new foreign station or loss of transmitter site by condemnation)." *Royce Int'l Broadcasting Co. v. FCC*, 820 F.2d 1332 (D.C. Cir. 1987); *Belo Broadcasting Corp.*, 68 FCC 2d 1313, 1322 (1978).

21. Negroni easily fails the "unforeseeability" requirement of § 73.3522(b)(1). Even putting aside Negroni's *cum grano salis* claim that, despite careful review of the engineering portion of its application, it took many years

to "discover" that its transmitter site was misplotted by several thousand feet *and* that its proposed tower height was 184 feet *lower* than actually anticipated, we find its instant assertions to be disingenuous in the extreme. For example, though propounding to the ALJ and the Board that its shortfall/translator proposal was a calculated, superior means of serving Naguabo, Negroni now swears that he was personally "sure he had [initially] selected a combination of tower height and location" to adequately cover Naguabo, and that he "was very surprised" when the FCC denied his application because his signal was deficient, only *after* which he has just looked into the matter.[35] But Negroni's signal deficiency was clearly spelled-out in the 1988 HDO, a waiver of § 73.315 was declared mandatory, and Negroni's entire engineering case (as well as its findings and conclusions before the ALJ and exceptions to the Board) centered on, and defended as "optional," the very signal shortfall Negroni now claims came as a "surprise" when his waiver quest was denied by the ALJ. Thus, certainly since the issuance of the HDO, Negroni's basic engineering deficiency was "foreseeable." But, unlike Blanco (which initially had a similar deficiency but chose to timely amend), or two other similarly situated applicants (who chose not to prosecute their defective applications), Negroni has tendentiously belabored this entire proceeding with the proposition that, nay the signal shortfall illuminated in the *HDO*, its proposal was nevertheless *superior*. Its claim of "unforeseeability" is, therefore, rejected. *Texas Communications Limited Partnership*, 5 FCC Rcd 5876, 5877 (Rev. Bd. 1990); *compare, e.g., California Broadcasting Corp.*, 90 FCC 2d 800 (1982) (site designated a national park; amendment unforeseeable).

22. For much the same reason, Negroni has failed to exercise due diligence, perhaps the key prong of the *O' Conner* "good cause" test. Due diligence dates "from the time the applicant is, or should have been, apprised of the problem requiring amendment." *Brownfield Broadcasting Corp.*, 88 FCC 2d 1054, 1058 (1982). Negroni now vows it believed it had originally specified a site from which it would have covered "virtually all of Naguabo" and was "surprised" to learn from the *I.D.* that it covered *none* of that community with the requisite strength signal. But Negroni was apprised, definitely no later than the 1988 *HDO*, that its original signal coverage assumptions (whatever) were misplaced; rather than check its (alleged) assumptions even at that advanced point in time, it elected instead to prosecute its case through hearing (and, lo, exceptions to the *I.D.*) on the positive theory that its (total) shortfall/translator proposal was, in fact, a more noble waiver predicate. In fact, Negroni knew in 1986 when it filed its application -- two years prior to the *HDO* -- of its city grade signal coverage deficiency, discussed it therein in great detail, and filed an amendment containing its translator proposal in January 1987 in order to overcome its very well-known deficiency.[37] As we stated in *Shoblom Broadcasting, Inc.*, 93 FCC 2d 1027, 1031-32 (Rev. Bd. 1983)[38]:

> An applicant's lack of due care in choosing a transmitter site cannot be equated with either unforeseeability or involuntariness when the need to resolve *pre-existing* site problems finally become apparent. To rule otherwise would put a premium on know-nothingism . . . .

Indeed, Negroni's personal "know-nothingism" and alleged personal "surprise" at learning of its it glaring deficiency negate any conceivable claim that it misrelied on its engineering consultant, even if that alone could excuse an equally glaring lack of diligence (which it generally does not, *see Texas Communications*, 5 FCC Rcd at 5877 (citing *Natick Broadcast Associates, Inc.*, 6 FCC 2d 607, 611 (1967); *see also Royce Int'l B' casting, supra*, 820 F.2d at 1336 (even *lack of* engineering consultant did not help meet "unforeseeability" test or excuse paucity of diligence where hearing designation order "contained no obscurities" and was "unambiguous" as to deficiency)).[39] Having failed miserably to meet the key test of due diligence, its request to amend is crippled. *40* / And, all of the circumstances considered, it can claim no equities comparable to those in *Anax Broadcasting, Inc.*, 87 FCC 2d 483, 481 (1981), to cure its defect, *see Royce Int'l B' casting*, 820 F.2d at 1337-38. As the court much earlier opined in *Colorado Radio Corp. v. FCC*, 118 F.2d 24, 36 (D.C. Cir. 1941), an:

> appellate [cannot] sit back and hope that a decision will be in its favor and then, when its isn't, to parry with an offer of more evidence. No judging process in any branch of government could operate efficiently or accurately if such a procedure were allowed.

We agree with the Mass Media Bureau that Negroni's case in favor of reopening the record to accept its amendment -- more than *four years* after it first filed, more than *two years* after the issuance of the *HDO*, more than *sixteen months* after the closing of this record, and more than *four months* after the issuance of the *I.D.* -- is "absurd," [41] just as was its rather inconsistent case for a waiver of § 73.315. We will truck no longer with its defective application; Negroni's technical disqualification is squarely affirmed.[42]

D. Reasonable Assurance

23. Based upon a Negroni petition, the ALJ added issues to determine whether Blanco had reasonable assurance of its original site when it filed its application or misrepresented such assurance to the Commission. *I.D.*, para. 3.[43] A similar set of issues was added against Archilla with respect to its certification of reasonable assurance of its current (amended site) site. *Id.* The ALJ made extensive findings of fact under the Blanco issue(s), *see id.*, para. 70-97, and resolved the related issue(s) in Blanco's favor. *Id.*, paras. 133-137. The ALJ also recorded complete findings as to the Archilla site-related issue(s), *id.*, paras. 108-118, and concluded there as well in Archilla's favor. *Id.*, paras. 145-149.[44] Assorted exceptions attack all of those conclusions, and we review those now.

24. *Blanco: Marin Site.* The issue over Blanco's originally specified transmitter site centered on the conflicting declarations and testimony of Domingo Cruiz Marin (a/k/a "Domingo Cruz Rodriguez," nickname "Santo," *see I.D.*, n. 14), the owner of the subject land who, it is said, cannot read or write. According to the ALJ, because Jorge Blanco was in Laurel, Maryland preparing to take an engineering exam, he dispatched his father (Blanco Pi, an experienced broadcast engineer) and Raisaac Colon Rios (who originally considered joining the

Blanco application) to visit Marin. After a preliminary visit, the two emissaries returned and secured a written agreement of October 7, 1986, which in part stated[45]:

> That I have authorized Mr. Raisaac G. Colon Rios and Mr. Jorge G. Blanco Galdo to propose this site the Federal Communications Commission for a project to construct a radio station.

Marin also acknowledged therein receiving $50 in cash at signing, agreed to another $500 at installation, and signed his mark with a cross ("X") after the agreement was read aloud to him by a neighbor, Raul Santana Trapia, who (along with Blanco Pi and Colon) witnessed the mark and initialed the agreement. *I.D., para. 74. In November 1986, Jorge Blanco (along with Blanco Pi) again visited Marin and surveyed the land once more. Id.*, paras. 75-76. However, on September 9, 1988, Negroni sought to enlarge the issues respecting the Marin site, based upon a declaration prepared by Negroni's attorney, and purportedly signed by Marin on December 27, 1987, which in part stated that although Marin had indeed agreed to a $200 per month rental for the site and took the $50, "I never discussed whether I would allow constuction of a tower of that height [153 feet] on my land" and would never agree to such construction because it is "so near my home."[46] Although that declaration bore what purported to be Marin's signature, Negroni later admitted he had himself signed for Marin, after Marin had affixed his mark ("X"). *I.D.*, para. 81. Upon learning of that 1987 declaration, Blanco secured a contrary declaration of September 14, 1988 from Marin, which in part stated that "the only signature using a cross that I gave to anyone" was the October 1986 agreement with Blanco "to install a radio station," and that [47]:

> The tower's installation was explained to me, as well as its height and its construction. Since that day I have not signed any document with anyone pertaining to the matter.

Although Marin's attestation of that third declaration had three witnesses, including Marin's wife, Blanco (out of caution) secured a similar declaration on the following day (documented with Marin's inked fingerprints) in which Marin expressly (1) reaffirmed his October 1986 site agreement with Blanco and (2) claimed that the December 27, 1988 declaration provided by Negroni to the FCC was a "false document." *I.D.*, para. 85.[48] There was also submitted a follow-up declaration of Marin (documented again with his inked fingerprints) of October 8, 1988, reaffirming[49]:

> THAT, I have agreed to allow Messrs. Raisaac Colon and Jorge Blanco to install 150 foot-high (one hundred and fifty feet) radio tower on my property, as long as the Federal Communications Commission approves their application.

25. When asked to explain these vacillations at hearing, Marin suggested that "I forget a lot of things" due to a 1950 back surgery, Tr. 70; that Marin accepted Blanco's offer (and cash) in 1986, Tr. 76, but that he didn't understand "all that business about towers," Tr. 108, although the document was read aloud to him at the time, Tr. 80-81; and that he had, after all, made his mark ("X") on the December 1987 declaration provided to, and by, Negroni, but had "forgotten" about this when providing Blanco with a flatly conflicting declaration. *See I.D.*, paras. 93-96 (and transcript citations therein). Marin also admitted that Negroni had paid his transportation expenses to the hearing, a witness fee, and had even purchased the suit of clothes Marin wore at hearing. Tr. 163-164. After considering all of the foregoing, the ALJ concluded that "Marin is not a credible witness," *I.D.* at para. 134, and that Blanco had reasonable assurance of the Marin site when it filed. *Id.*, paras. 135-136.

26. *Archilla*: *Amaro Site*. Much the way Blanco had relied upon the initial indication from Marin for the use of his land for a transmitter site, Archilla claimed to have relied (in a November 9, 1987 application amendment) on the August 1987 assent of property use by Reverend Enrique Amaro, an elderly, "forgetful" man, *I.D.*, para. 145, whose actons and words were likewise inconsistent. The ALJ narrates that Archilla (accompanied by engineer Jose Martinez) visited Amaro on August 20, 1987, and Archilla claims that Amaro was then unhappy with the $25 per month he was deriving from an existing tower on his land; that Amaro wanted a new tower and had already discussed his land with several radio station aspirants; that Amaro wished to lease (but not sell) his land; and that, while Archilla and Amaro shook hands on the use of that site, Amaro would neither sign a written lease nor agree to final rental terms until award of the Construction Permit (a contention later corroborated by Amaro, *see* NBC Exh. 6, p.20).

27. However, and again reminiscent of the Blanco/Marin scenario, NBC later produced a declaration of September 4, 1988, signed by Amaro, averring that "I did not discuss the use of my property with Efrain Archilla Diez" and that "[t]he only person I have agreed to make my property available to is [NBC sole proprietor] Francisco Resto Torres."[50] NBC augmented with an October 23, 1988 declaration, prepared by NBC for Amaro's signature, reasserting the verisimilitude of his September declaration. *I.D.*, para. 115.

28. Yet, smack between 1988 Amaro's September and October 1988 declarations, Archilla met (on October 1) with Amarao, Amaro's son (Samuel), and Amaro's local attorney (Bernardo Colon Barbarosa) to clarify the matter. At that meeting, "Reverend Amaro told Colon Barbarosa that he had reached an agreement regarding his property with Archilla in August 1987." *I.D.* at para. 114 (citing NBC Exh. 6 [Amaro Deposition], p.16). In that same deposition, Amaro swore he had assured Archilla the use of his land "a long time before" he had signed NBC's September 4, 1988 declaration. *I.D.*, para. 115 (quoting NBC Exh. 6, p.9). In fact, despite Amaro's October 23, 1988 reaffirmation to NBC that his September 4 declaration remained true (*i.e.*, no existing agreement regarding land with anyone but NBC), Amaro had *four days prior thereto* signed a written lease agreement with Blanco. *I.D.*, para. 145. Moreover, Amaro's deposition averred that Amaro "had not told [NBC] that [it] had excusive permission to use the land," *id.*, at para. 117 (citing NBC Exh. 6, p.9), in direct contrast with the September 4, 1988 declaration supplied by NBC that triggered this entire embroglio. Amaro's deposition further swore that he did not recall signing the earlier declarations. NBC did not read them to him, and "[t]hey just bring these [NBC] documents to me. I sign them for them, and then they

just leave. We don't talk a lot." *Id.*, at para. 116 (quoting NBC Exh. 6). In the face of all of the above, particularly the (albeit inconsistent) Amaro deposition supplied by NBC itself, the ALJ resolved that Archilla had reasonable assurance of the Amaro site when it so certified, and that adding the site issue based upon NBC's September 4, 1988 was, in retrospect, a mistake in the first instance. *See I. D.*, paras. 145-149.

29. *Discussion*: The following legal principles are pertinent to our study of the exceptions to the ALJ's favorable resolution of the site availability issues against Blanco and Archilla. First, the Commission has:

> long held that a broadcast applicant need not have a binding agreement or absolute assurance of a proposed site. What an applicant must show . . . is that it has obtained reasonable assurance that its proposed site is available, with some indication of the property owner's favorable disposition toward making an arrangement with the applicant, beyond simply a mere possibility. [Citation omitted]. This reasonable assurance may be acquired by informal telephone contacts by counsel for the applicant, and *rent and other details may be negotiated at a yet undetermined date. See Puopolo Communications, Inc.*, 60 RR 2d 964 (Rev. Bd. 1986). The applicant, at the time it files its application, should have 'obtained sufficient assurances in response to justify its belief that the site is suitable and available until advised otherwise.' *Id.* at 966.

National Innovative Programming Network, Inc., 2 FCC Rcd 5641, 5643 (1987). *See also Elijah Broadcasting Corp.*, 5 FCC Rcd 5350, 5351 (1990) (reasonable assurance test not exceptionally demanding).

30. And, second, when an ALJ has based his conclusions on credibility findings (in addition to demonstrative and testimonial evidence):

> The Commission has recently advised the Court of Appeals "of the Commission's general reluctance to overturn the credibility determinations of an ALJ unless his findings are patently in conflict with the record evidence." Brief of FCC at 26, *Winter Park Communications v. FCC*, Nos. 85-175, 85-1756 (D.C. Cir.). *See also Broadcast Assoc. of Colorado*, 104 FCC 2d 1619 (1986) (modifying 100 FCC 2d 616 (Rev. Bd. 1985) ("[a]bsent extrinsic evidence to the contrary, we believe that [an] ALJ's judgment . . . is entitled to great weight"); *Signal Ministries, Inc.*, 104 FCC 2d 1481, 1486 (Rev. Bd. 1986) ("[i]n the absence of patent conflicts with the record evidence, the Commission accords special deference to a presiding officer's credibility findings sicne the trier of fact has had a superior opportunity to observe and evaluate a witness's demeanor and to judge his/her credibility"). Despite the mass of variegated verbiage, we believe that the authorities are in consensus in holding some real and legally recognizable deference is to be accorded to the credibility findings of a federal ALJ, unless "reversal is supported by substantial record evidence." *WHW Enterprises, Inc. v. FCC*, 753 F.2d 1132, 1141 (D.C. Cir. 1985). *TeleStar, Inc.*, 2 FCC Rcd 5, 13 (Rev. Bd. 1987), *aff'd* , 3 FCC Rcd 2860 (1988), *aff'd per judgement, TeleStar, Inc. v. FCC*, 886 F.2d 442 (D.C. Cir. 1989). *See also Adlai E. Stevenson IV*, 5 FCC Rcd 1588 (Rev. Bd. 1990) (ALJ credibility determinations on site issue accorded deference). Though the Board recognizes its responsibility to look behind credibility findings to assure substantial record evidence in support, *see generally* 5 U.S.C. § 706(2)(E), and will reverse in the absence of such solid record support, it has encountered such situations only "[o]n rare occasions." *Richardson Broadcast Group*, 5 FCC Rcd 5285, 5287 (Rev. Bd. 1990).

31. The exceptions to the *I. D.* regarding the Blanco site availability issue(s) do not claim that the ALJ overlooked any probative evidence or that his credibility findings regarding Marin were erroneous. Rather, they argue variously that Marin was confused when he signed his October 1986 agreement with Blanco, and that therefore no "meeting of the minds" as to the site occured then [51]; or that Marin never agreed to a 153-foot tower.[52] However, as we recentiy underscored in *Mableton Broadcasting Co., Inc., supra* note 40, where there exists a conflict between demonstrative evidence and a landowner's subsequent equivocation, we invariably rely on the former, since the Board is unhappily familiar with a landowner's reticence, once alerted to the value of the property to an FCC applicant by a competing interest. *See* 5 FCC Rcd at 6320 & n.22; for this same phenomenon, *see also Advanced Broadcast Technologies, Inc.*, 5 FCC Rcd 1960, 1960-63 (Rev. Bd. 1990); *George Henry Clay*, 5 FCC Rcd 317, 318-19 (Rev. Bd. 1990). The exceptors provide no basis on the record for reversing the ALJ's well documented conclusions as to Blanco's original site, and Blanco has plainly met the reasonable assurance test. *Elijah Broadcasting, supra.*

32. In the absence of a written 1987 agreement between Archilla and Amaro, the quality of evidence on Archilla's side is, naturally, not as strong. But there is demonstrative evidence, notably Amaro's deposition, corroborating an August 1987 assent to use the site, though we do not gainsay that Amaro has often contradicted himself on the status of his land. While acknowledging the evidence going against Archilla, we find substantial evidence (within the meaning of *Consolidated Edison Co. v. NLRB*, 305 U.S. 197, 229 (1984)) to support the ALJ. In that regard, all of the exceptors recognize that Amaro swore at deposition as to his August 1987 assent to Archilla, but point to Amaro's contradictions and infer, for assorted speculative reasons, a change of mind thereafter on Amaro's part. We register the contradictions, have reviewed *de novo* the entire record on this matter, but find that the more direct and specific evidence was relied upon by the ALJ. *See I.D.*, paras. 145-149.[53] That is sufficient. *See Lorain Journal Co. v. FCC*, 351 F.2d 824, 828 (D.C. Cir. 1965), *cert. denied*, 383 U.S. 967 (1966); *compare Greater Boston Television* Corp. v. FCC, 444 F.2d 841, 853 (D.C. Cir. 1970) (decision affirmed if supported by substantial evidence, even if ALJ also relies on substantial evidence and agency *disagrees), cert. denied*, 403 U.S. 923 (1971). Lastly, though the exceptors submit that Archilla lacked reasonable assurance because it and Amaro had failed to reach finite lease terms in 1987, their fight is with current FCC standards, *see National Innovative Programming Network, supra; accord, Advanced Broadcast Technologies, supra*, 5 FCC at 1963 (Comm'n has held that site owner and applicant "may even work out exact terms for lease . . . at

some time in the future"), and not with the correct ALJ application of those current standards. *See I.D., para.* 147. The exceptions to the Amaro site issue(s) are denied.[54]

II. ABUSE OF PROCESS

33. By *Order*, 89M-1632, released June 12, 1989, the ALJ denied a Ruiz motion to enlarge the issues against Archilla to include an abuse of process issue (and related truthfulness issues) stemming from a counterproposal filed by Archilla, five years earlier, in Archilla's capacity as vice president/general manager of WALO (AM), Humacao, Puerto Rico, a station licensed to his father's Ochoa Broadcasting Corp. The facts underlying this matter are not in the slightest dispute.[55] In 1984, and in its MM Docket No. 84-231, the Commission proposed to add nearly 700 new FM broadcast stations, including a possible new allotment on channel 247A in Naguabo *(Note:* The channel *here* at contest is FM channel 225A.) In response to that proposal, Archilla "offered a host of reasons to allot Channel 247A to Rio Grande [Puerto Rico] rather than Naguabo."[56] Accompanying Archilla's counterproposal was a personal certification ("expression of interest," *see Amor Family Broadcasting Group v. FCC*, No. 89-1366 (D.C. Cir. November 1990)), indicating that Ochoa Broadcasting would apply for channel 247A, if the allotment was ceded to Rio Grande instead of Naguabo. In January 1985, the Commission accepted that counterproposal and alloted channel 247A to Rio Grande. *First Report and Order* (MM Docket No. 84-231), 51 Fed. Reg. 3514 (1985). However, and this is important, the Commission did not open a "filing window" for applications for the Rio Grande channel until mid-summer 1988. *Public Notice*, Report No. W-44, released July 8, 1988 (Rio Grande "filing window" to open, and close August 16, 1988). But *two years earlier*, by *Report and Order* (MM Docket No. 85-209), released August 20, 1986, the Commission allotted the instant channel 225A to Naguabo and announced a brief "filing window" for this subject frequency. In response to that 1986 invitation, Archilla filed in his own right in this proceeding; neither he nor Ochoa Broadcasting filed for Rio Grande two years later. By the time that latter "filing window" was to close, the *HDO* had been issued in this Naguabo proceeding, and Archilla was a very active applicant here.

34. Approximately eight months thereafter (March 1989), Ruiz sought its abuse of process issue(s) because Archilla (and/or Ochoa Broadcasting) had not filed for Rio Grande and because, in his deposition, Archilla stated that "it wouldn't be fair" to deny that "one reason" for filing the Rio Grande counterproposal in 1984 was that channel 247A would be further from WALO-AM than Naguabo.[57] The thesis against Archilla on these facts is, as NBC expresses it, that "[i]n filing a counterproposal to protect the private interests of Ochoa Broadcasting Corp., WALO and his family, Archilla abused the Commission's processes."[58]

35. As we observed several years ago:

> The term "abuse of process" is a very broad concept but generally can be defined as the use of a Commission process, procedures, or rule to achieve a result which that process, or rule was not designed or intended to achieve or, or rule in a manner which subverts the underlying intended purpose of that process, procedure, or rule.

Silver Star Communications-Albany, Inc., 3 FCC Rcd 6342, 6352 (Rev. Bd. 1988)(internal citation and emphasis omitted). We accord with NBC that the Commission's concept of abuse is similar to the *corpus juris, see Restatement (Second) of Torts*, § 682 (1977); *Westmack, Inc. v. Smith*, 797 F.2d 313, 320-21 (6th Cir. 1986). The question before us is, do Archilla's actions respecting the 1984 Rio Grande counterproposal fall within the parameters of that definition, either because of any economic motive for the counterproposal or because of evidence of deceptive intent in the submission thereof.

36. We rebuff outright the nostrum that, in considering the economic impact on WALO (AM), Archilla disclosed an "improper motive" for the Rio Grande counterproposal.[59] The FCC is not a kindergarten, and it can be assumed that most of those opposing an allotment or tendering a counterproposal have some economic interest in so doing. *See Mt. Wilson FM Broadcasters, Inc. v. FCC*, 884 F.2d 1462 (D.C. Cir. 1989); *Amor Family Broadcasting Group, supra*. Indeed, the potential of economic injury is a prime basis for legal standing to take a position in a broadcast proceeding, and profoundly legitimate. *Mt. Wilson : FCC v. Sanders Brothers Radio Station*, 309 U.S. 470, 476 (1940); *Orange Park Florida TV, Inc. v. FCC*, 811 F.2d 664, 673 (D.C. Cir. 1987). It would be supremely anomalous were we to find that a legitimate basis for standing at the threshold is, at the same time, an illigitimate basis for the substantive position advanced. The suggestion otherwise is jejune; were all parties with an economic interest enjoined to avoid any FCC proceeding that threatened that interest, the bustling cityscape of M Street, N.W., Washington, D.C. would transmogrify into moonscape -- overnight.

37. The only germane inquiry here is whether Archilla was intentionally false when he certified in 1984 on behalf of Ochoa Broadcasting that, if channel 247A were allotted to Rio Grande instead of Naguabo, it would file for Rio Grande. In rejoining the 1989 Ruiz motion, Archilla explained to the ALJ its reasons for not later filing[60]:

> In summary, those are: (1) the Rio Grande channel allotment has the possibility of severe interference from a high power FM station in the British Virgin Islands; (2) the Rio Grande channel would come up for applications much later than the Naguabo channel; (3) by the time Naguabo applications were designated for hearing in August, 1988, four years after Archilla has stated an intention to file for Rio Grande, and almost two years after he filed his Naguabo application, his children had become established in the Naguabo/Humacao area and his family wished to remain there rather than move to Rio Grande. Archilla's decision to apply for Naguabo in 1986 rather than wait for the Rio Grande window was legitimate, and speculation that he never intended to apply for Rio Grande is just that -- speculation.

As we see it, the timing plays a critical part in assessing Archilla's actions. It is true that, in 1985, the Commission alloted channel 247A to Rio Grande. But when, in August 1986, the Commission opened a "filing window" for this channel 225A in Naguabo, Archilla confronted a choice: File immediately for Naguabo in his own right rather than default on a Naguabo station which was com-

ing in any event, or await the "filing window" for Rio Grande (which, as it happens, did not open for two years, and by which time Archilla had spent a good deal of resources and money on the instant application). Under the circumstances, Archilla's 1986 election to file immediately for Naguabo and to later forego Rio Grande seems eminently logical. The exceptions offer no rationale for a claim that Archilla did not intend (until faced with the 1986 Naguabo "filing window") to apply for Rio Grande; and its not logical to presume that Archilla (or Ochoa Broadcasting) wouldn't have applied for channel 247A in Rio Grande, had Naguabo not opened in the interim. A stated intention to file an application consequent to an allotment to a particular community is not necessarily permanent, if operative circumstances change. *See generally Sunshine Broadcasting, Inc.*, 101 FCC 2d 476, 477-78 (Rev. Bd. 1985) (subsequent affirmances omitted). The exceptions provide no evidence whatever of *mala fides* on the part of Archilla in 1984, and they willfully ignore altogether the radically changed circumstances in August 1986 when Naguabo became ripe for applications. Parties seeking a new issue have always had the evidentiary burden. *Spanish International Television Co., Inc.*, 2 RR 2d 853, 856 (Rev. Bd. 1964); aside from the obvious lateness of the Ruiz motion, *see* 47 CFR § 1.229(b), and stripped of the coloration of an "improper" economic motive, no party has here provided a scintilla of proof that Archilla falsely registered a 1984 interest in Rio Grande, were that the FCC's choice *in lieu of* Naguabo. We affirm the ALJ's ruling on the Ruiz motion, a ruling not even Ruiz contests before the Board.[61]

III. COMPARATIVE STANDING

38. Having affirmed the determination of the *I.D.* that only NBC, Blanco and Archilla are basically qualified under 47 U.S.C. § 308(b), we shall consider the decisional exceptions to their comparative cases under the 1965 *Policy Statement* (and apposite precedent).

39. *Diversification of Control of Mass Media.* Under this comparative factor of "primary significance," 1 FCC 2d at 394, the ALJ concluded that none of the three technically qualified applicants will own, control, or have a cognizable interest in a mass medium. *I.D.*, para. 152. The exceptions claim that the ALJ erred in not assessing a diversification demerit against Archilla, despite his timely pledge to resign his offices and position with Ochoa Broadcasting (uncontested, *but cf.* note 1 *supra*), should he receive this Naguabo permit, *see id.*, para. 46. Because Archilla would continue to "devote a few days a year" to his father's WAMA, Tampa, Florida as a technical consultant, *id.*, n. 29, the exceptions demand at least a slight diversification demerit.[62] But the cases cited in the exceptions all deal with instances of residual management control (or potential thereof)-- thee sole focus of FCC diversification concerns -- and Archilla's occasional technical consultancy for the Tampa station yields an insufficient basis to consider this tantamount to ownership or substantial policy influence. *See Talleyrand Broadcasting*, 103 FCC 2d 476, 478 (Rev. Bd. 1985) (even position of chief engineer for another station has little effect on agency "concern for a diversity of media voices"). The exceptions to the *I.D.* on this score are unpersuasive.

40. *Ownership/Management Integration.* Under the 1965 *Policy Statement*, the criterion of "best practicable service" embraces a pledge to work full-time at the new station, 2 FCC 2d at 395-96, and an owner's personal attributes such as local residence, local civic activities, and past broadcast experience enhance an integration pledge, *see id.* As amongst the three technically qualified contenders, all proposed full-time integration by 100% ownership (all have a solitary principal), *see id.*, para. 155. But only Archilla has long-time residence in the service area (since 1973), and civic activities therein, *id.*; the principals of the other two applicants simply promise to move to Naguabo, a promise "accorded less weight than present residence of several years' duration." *Policy Statement*, 1 FCC 2d at 396.

41. Nonetheless, the NBC exceptions argue that the ALJ accorded Archilla too much credit for civic activities and the Ruiz exceptions contend that Archilla cannot devote full-time to the new station because of a 50% interest in a radio paging business. The NBC exceptions are irrelevant, since Archilla's past service area residence alone defeats NBC's own enhancement. As to the paging business, the undisputed testimony reflects that it is handled by Archilla's 50% partner in that enterprise, Tr. 1592-93; when it is recalled that Archilla has maintained an interest in the paging business while concurrently serving as general manager of WALO (and vice president, secretary/director of Ochoa Broadcasting), the claim that Archilla's paging business cannot be accommodated simultaneously falls apart. [63] These exceptions make no material dent on the comparative analysis in the *I. D.*, and Archilla prevails overall under the "best practicable service" criterion.[64]

IV. CONCLUSION

42. In a model *I.D.*, the Commission's Chief ALJ promulgated the extensive, detailed and accurate findings that support securely the legal conclusions that flow smoothly therefrom. We hold that the grant of waivers of § 73.207 of the rules to NBC, Blanco and Archilla to permit technical enqualification was justified by fact and precedent. Though the denial of a corresponding waiver of that same rule to Ruiz, whose transmission site is short-spaced by 0.4 km greater than the former three applicants, may seem superficially rigid, we believe that the ALJ was equally justified in drawing the line where he did. Were it permissible for a short-spaced applicant to use other non-compliant sites, and not the *rule* itself, as the baseline of reference, any number of progressive spacing deficiencies could be countenanced, *ad infinitum*. For a wavier of § 73.207, the "least short-spaced" site is the Commission's standard.

43. Much more easily confirmed is the denial of a waiver of § 73.315 to Negroni. Banking all on a secondary translator (or booster) station for which it has never applied, Negroni (until recently) argued that a total lack of the requisite strength signal coverage of the very community of license was a priority predicate for rule waiver and technical enqualification. The *HDO* explicitly doubted that proposition (*see supra* note 8), the ALJ spurned it, and we affirm. Negroni's desperate motions to reopen and amend do not approach the Commission's established tests for such extraordinary and disruptive interjections, so its arguments in support thereof are bereft of even facial merit.

44. In the ALJ's final analysis, Archilla's long-time sevice area residence (conjoined with civic activity and broadcast experience) conspicuously outstrip the correl-

ative attributes of NBC and Blanco. By 1965 *Policy Statement* tenets, the *I.D.* award to Archilla should not be undone.

45. ACCORDINGLY, IT IS ORDERED, That the motion to reopen the record, filed on September 26, 1990, by Hector Negroni Cartagena IS DENIED; and,

46. IT IS FURTHER ORDERED, That the application of Efrain Archilla-Diez (File No. BPH-861027MI) for authority to construct a new FM broadcast station at Naguabo, Puerto Rico IS GRANTED, and the application of Francisco Resto Torres d/b/a Naguabo Broadcasting Company (File No. BPH-861023MA), Jorge G. Blanco Galdo (File No. BPH-861027ME), Reyes Ruiz Rivera (File No. BPH-861027MF), and Hector Negroni Cartagena (File No. BPH-861027MH), ARE DENIED.

FEDERAL COMMUNCIATIONS COMMISSION

Norman B. Blumenthal
Member, Review Board

FOOTNOTES

[1] The Board also has before it the October 29, 1990 Petition For Official Notice Or Alternatively To Reopen The Record And Receive Evidence, filed by NBC, and a responsive Opposition filed by Archilla on November 2, 1990. NBC asks us to notice that Archilla is a vice president of Ochoa Broadcasting Co. Citing Archilla's 1984 declaration of that fact and Tr. 1647, Archilla essentially demurs. Apart from failing to meet the tests for reopening a record, *see infra*, para. 19, NBC has provided nothing not long ago revealed to the FCC and NBC (*see, e.g., infra* paras. 33, 39). These pleadings are summarily dismissed as moot, and NBC's November 13, 1990 Petition For Leave To File Response is consequently dismissed as moot.

[2] All FCC rule section references herein are to be found in Chapter 47 of the Code of Federal Regulations.

[3] Section 73.207 also prescribes minimum spacing distances as to various adjacent FM broadcast channels, but those distances are not immediately pertinent to the case at bar.

[4] While the *I.D.* describes WTPM (FM) as a San Juan station, the *Hearing Designation Order*, 3 FCC Rcd 4634 (1988) (" *HDO* "), governing this case locates that facility in Aguadilla, Puerto Rico. Despite this apparent discrepancy, nobody here disputes that § 73.207 requires a 163 kilometer spacing from WTPM (FM). It is also noteworthy that WTPM(FM) has not sought to participate here to oppose the short-spacing.

[5] The *HDO* adverts to these same four applicants by a different nomenclature (*to wit*, "NBC, Galdo, Rivera, Archilla-Diez" (3 FCC Rcd at 4634)) than we have signified in our introductory paragraph; in selecting our nomenclature, we have tried, for ease of comparison, to follow generally the nomenclature of the *I.D.*, which is itself not always consistent. For reasons not particularly evident in this case, nomenclature seems to complicate cases in Puerto Rico. *See, e. g., Lleradani v. FCC*, 863 F.2d 79 (D.C. Cir. 1988).

[6] The other "fully-spaced" applicants, who like Negroni did not comply with § 73.315, have long since been dismissed for failure to prosecute. *See I.D.* at n.1.

[7] In fact:

> While the Negroni site is also short-spaced to WTPM(FM), the distance involved is 1.5 kilometers, an amount considered *de minimis*. (Negroni Ex. 10, p. 3.) *See Order*, FCC 88M-3912, released November 17, 1988. Hence, there is no Section 73.207 issue specified against Negroni.

I.D., at n.26.

[8] In one of the HDO footnotes omitted from our quoted text, the Mass Media Bureau commented upon Negroni's proposal to overcome its "principal community" signal strength deficiency with a "fill-in" translator by stating:

> Cartagena's [Negroni's] proposal to "fill-in" any deficiency in its coverage with an FM translator operating on the third adjacent channel is, therefore, premature. No evidence has been established at this stage that the public interest would be enhanced by a unique solution ensuring satisfactory coverage to the community of license. *See WSTE-TV, Inc.*, 75 FCC 2d 52, 63 (1979).

3 FCC Rcd at 4636 n.2. As we discuss *infra* (paras. 18-22), Negroni has waned on its translator proposal, possibly abandoning it for all practical purposes.

[9] *I.D.* at para. 123 (emphasis added).

[10] *Id.*, at para. 124 (emphasis added).

[11] *Id.*, at para. 125 (emphasis added).

[12] *Id.*, at para. 127 (emphasis added; footnote omitted).

[13] *Id.*, at para. 155.

[14] *Accord, WAIT Radio v. FCC*, 459 F.2d 1203 (D.C. Cir.)(WAIT II), *cert. denied*, 409 U.S. 1027 (1972). If anything, the court has tightened rather than loosened the general waiver standard. *See, e.g., Northeast Cellular Telephone Co., L. P. v. FCC*, 897 F.2d 1164 (D.C. Cir. 1990).

[15] Negroni Exceptions at 18, citing *Townsend Broadcasting Corp.*, 62 FCC 2d 511, 512 (1976).

[16] *Id.*, citing *Edens Broadcasting Inc.*, 2 FCC Rcd 689, 693 (Rev. Bd. 1987).

[17] *Id.*, at 19-20, citing *Mission East Co.*, 25 FCC 2d 428, 429, *recon. denied*, 30 FCC 2d 556 (1971) and *Townsend Broadcasting*, 62 FCC 2d at 512.

[18] *Id.*, at 20, quoting *Kenter Broadcasting Co.*, 62 R.R. 2d 1573, 1577. But *Kenter* works strongly against Negroni. There, and in striking contrast to this case, the Media Bureau processing line officials denied Kenter a right to a comparative hearing as against three other applicants because it did *not* meet the threshold test of showing the lack of a short-spaced site, *see id.*, at 1574-1575, while here Negroni's own documentary evidence (*i.e.*, letter of Navy rejection of its own deliquent site) helped breach that threshold. (We further note that Negroni omitted to include that the Commission's action there was *aff'd per judgment, Kenter v. FCC*, 816 F.2d 8 (D.C. Cir. 1987), and it also failed to to mention that the Commission denied Kenter an opportunity to amend *prior to* hearing, a maneuver that Negroni now attempts post-hearing, post-exceptions, and post-oral argument.)

[19] *Id.*, at 16 (emphasis in original; citations omitted).

[20] *Id.*, at 8-9 (emphasis added; footnote omitted).

[21] *But see* Negroni's *post*-oral argument petitions to reopen and amend, *infra* paras. 18-22.

[22] *See* Ruiz Exceptions at 8-12. Ruiz does rely upon *Amendment of Part 73 of the Rules to Permit Short-Spaced FM Assignments By Using Directional Antennas*, 4 FCC Rcd 1681 (1989),

for the proposition that "the Commission was persuaded to expand its definition of *de minimus* to include short-spacing of up to 5 miles or 8 kilometers." However:

> in its Report and Order in MM Docket No. 87-121 the Commission merely provided for short-spacing of up to 5 miles in instances where directional antennas were utilized and certain fundamental requirements met. Ruiz has not proposed to utilize a directional antenna in this instance.

NBC Reply at 18. Quite so.

[23] Actually, Blanco timely amended its application to the common site of NBC and Archilla, and received from the ALJ a short-spacing waiver of § 73.207. *See I.D.*, n.11.

[24] "Ruiz' consulting engineer, relying on Tech Note 101, calculated that the strongest signal Negroni would provide to Naguabo is 49.9 dBu." *I.D.* at para. 127.

[25] Negroni Exceptions at 11.

[26] Petition to Reopen, *infra* note 32, Declaration of Hector Negroni Cartegena, September 19, 1990 at 1.

[27] William Collins, *Ode Written in the Year 1746*, st.1.

[28] Negroni Exceptions at 16.

[29] Not to the contrary is *Cowles Florida Broadcasting*, 37 RR 2d 1487, 1506 (1976), where the Commission stated:

> We hold that as between the two competing rules, continued integrity of the mileage separation rules is entitled to the greater weight.

As Ruiz aptly rejoins:

> With respect to this passage, a careful examination of the context of the statement reveals a wholly inopposite fact pattern. In *Cowles*, the applicant was seeking a short spacing waiver to avoid the loss of 6% city grade coverage. The Commission denied the waiver, finding that an applicant can not be allowed to violate the separations rules merely to add 6% coverage to his or her proposal. Furthermore, the Commission was not even convinced that there was indeed a 6% city grade coverage gap. Unlike the party in *Cowles*, Negroni seeks a city grade coverage waiver to avoid the minimal amount of short-spacing that the other parties have proposed. Unlike the party in *Cowles*, Negroni is proposing a very limited amount of city grade coverage and would like to remedy this defect via the use of a FM translator. As is clearly evident, the Commission has never approved of such a proposal which is clearly not in the public interest.

Ruiz Reply at 4. That is not to say that, within the logic of *Cowles*, the Commission might not someday favor a minimal signal shortfall waiver over a massive short-spacing waiver. But that is clearly not the case before us.

[30] Archilla Reply at 17. The Commission recently amended its FM translator rules, *Report and Order* (MM Docket No. 88-140), released December 4, 1990, and it seems therefrom that Negroni is all but certainly ineligible for a grant for the purpose it proposes. But we need not, and do not, rely upon this latest translator policy. Much stronger reasons plainly run against Negroni's "unique" proposal.

[31] At oral argument, Negroni counsel allowed that, "admittedly I did not focus on the booster aspect of it until recent times." Tr. 2020. FM booster stations, operating under Part 74, Subpart L, of the Commission's rules are, like translators, a "secondary" service.

[32] Petition To Reopen The Record, filed September 26, 1990, by Hector Negroni Cartegena; Petition For Leave To Amend, filed September 26, 1990, by Hector Negroni Cartegena.

[33] Petition to Amend at 4.

[34] Petition To Reopen at 3.

[35] *Id.*, Declaration of Hector Negroni Cartegena, September 19, 1990 at 1.

[36] *Id.*

[37] *See* Archilla Opposition, filed October 9, 1990 at 10.

[38] *Aff'd mem. sub nom. Royce Int'l Broadcasting Co. v. FCC*, 762 F.2d 138 (D.C. Cir. 1885) (table), *cert. denied*, 474 U.S. 995 (1985).

[39] Not to the contrary is *Priscilla Schwier*, 3 FCC Rcd 4355 (Rev. Bd. 1988), where the applicant filed an unopposed amendment, only about one month after the release of the hearing designation order, to reduce antenna height to a level acceptable to the FAA.

[40] Even if Negroni's claim of diligence had more merit, it would trip on almost every other aspect of the *O' Conner* "good cause" test: (1) its amendment is hardly involuntary, *compare California Broadcasting Corp., supra*, (site designated national park); *Mableton Broadcasting Co., Inc.*, 5 FCC Rcd 6314, 6319-20, (Rev. Bd. 1990) (site owner changes mind); (2) at minimum, a new engineering hearing would be required since, even now, Negroni does not say what its signal shortfall would be, that it has FAA approval, nor has it provided an affidavit from its original engineering consultant attesting to its assertion of misplotting, *compare, Cannon Communications Corp.*, 5 FCC Rcd 2695, 2699 (Rev. Bd. 1990); (3) the disruption is self-evident; and (4) the other parties would be plainly prejudiced by having to relitigate Negroni engineering and waiver arguments, an ordeal to which they have already been subjected once. Negroni's is, without doubt, the most meritless motion to amend *ever* confronted by this Board, and the competition for that distinction is indeed stiff. *Compare Royce Int' l B' casting Co., supra.*

[41] Mass Media Bureau Opposition, filed October 5, 1990 at 2.

[42] Because we affirm Negroni's technical disqualification, the other exceptions directed toward Negroni (*e.g.*, Ruiz exceptions at 4-5) are non-decisional and need not be addressed at this point. *See, e.g., Tri-State Broadcasting Co.*, 5 FCC Rcd 3727, 3729 (Rev. Bd. 1990).

[43] Identical issues were added against Negroni with respect to the same site as the Marin/Blanco site; but pursuant to the above footnote, we do not address any of those issues.

[44] There is little doubt that Archilla *now* has reasonable assurance of its specified site, a matter decided by earlier ALJ summary decision, *see I.D.*, para. 145 & n.5; the real focus of the hearing (and the exceptions) was (and is) whether Archilla had reasonable assurance *at the time* it so certified.

[45] Full text at *I.D.*, para. 73.

[46] Full text at *I.D.*, para. 80. Apparently Negroni prepared both an English language and a Spanish-language version of this declaration, which versions appeared to differ somewhat. *See I.D.*, paras. 79-80.

[47] Full text at *I.D.*, para. 82.

[48] Full text at *I.D.*, para. 85.

[49] Full text at *I.D.*, para. 86.

[50] Full text at *I.D.*, para. 112.

[51] *See, e.g.*, NBC Exceptions at 37-41; Ruiz Exceptions at 5-7.

[52] *See, e.g.*, Negroni Exceptions at 23-31.

[53] However, we disagree with the exceptions that suggest that the ALJ erred in refusing Negroni's personal hearsay on what Amaro told him. Little weight in general would be given to such self-serving hearsay, let alone hearsay from a man who (1) affixed Marin's purported signature to a declaration without revealing that fact to the parties or the FCC, *see I.D.*, para. 81, and (2) has lately claimed "surprise" to learn of his signal strength deficiency in the *I.D.*, *see supra* para. 21.

[54] We also affirm the ALJ's refusal to enlarge the issues to explore the claim that Archilla misrepresented the reasons for his November 9, 1987 amendment. *See Order*, 89M-1633, released June 13, 1989. We have reviewed those exceptions and the ALJ's actions, but agree with the ALJ that Archilla fully explained his actions, had little motive to misrepresent the facts, and the exceptors would merely infer differently from those facts. They supplied little probative support for the (untimely) NBC motion. NBC had the burden here; it failed.

[55] *See e.g.*, NBC exceptions at 11 ("Inasmuch as the relevant facts are admitted, no further hearing is required . . . ."). We also note that Ruiz, whose motion to add this issue against Archilla was denied, has not excepted to the ALJ's refusal to do so.

[56] Archilla Reply at 12.

[57] NBC Exceptions at 5 (quoting Archilla deposition).

[58] *Id.*, at 9.

[59] *Id.*, at 9-10 (*passim*).

[60] *See* Archilla Reply at 13 (citations to record omitted).

[61] There is no claim or hint here of a strike application, *see Millar v. FCC*, 707 F.2d 1530 (D.C. Cir. 1983); unlike the appellant there, Archilla has applied for Naguabo in his own name and nobody questions the *bona fides* of the instant application. Despite Archilla's (freely admitted) economic motives concerning the Rio Grande counterproposal and the Naguabo application, we find nothing covert nor disingenous in the actons; merely a shift in strategic circumstances.

[62] We all but ignore Blanco's unprecedented demand (Exceptions at 5) that a diversification demerit be visited upon Archilla because "[f]amily is the cornerstone of Puerto Rican culture." Even in Puerto Rico, family relationships, standing alone, are insufficient to impute owenrship. *See Llerandi v. FCC*, *supra* note 5. We do the same with its argument that Archilla might inherit his father's broadcast interest (Exceptions at 7-10), should his father die. This is true in every state, but summons no basis for immediate attribution by the FCC.

[63] Not so easily brushed aside are Ruiz's present business interests, which he steadfastly proposes to retain even if granted this Naguabo broadcasting permit. One is an automobile service facility (1987 annual revenues $400 thousand), a 7-day per week operation, *I.D.*, para. 20; and, two, is a sound equipment business (1987 annual revenues $40-50 thousand), to which Ruiz now devotes 15-20 hours per week, *id.*, para. 21. In view of these continuing business interests, the ALJ awarded Ruiz only a part-time integration credit, *id.*, n.31, an award Ruiz counters (in favor of full-time credit) by claiming that he will hire two employees and reduce the hours devoted to these two businesses (*see* Exceptions at 12). We believe that, if anything, the ALJ was here generous, for the burden of proving entitlement to full-time (and/or part-time) integration credit is on each applicant, *see, e.g., Cuban-American Limited*, 5 FCC Rcd 3781, 3785 & n.3 (1990), and the Board's routine practice is to find that generalized promises to "diminish" the time spent on a significant business interest is insufficient. *Leinenger-Geddes Partnership*, 2 FCC Rcd 3199 (Rev. Bd. 1987), *review denied*, 3 FCC Rcd 1181 (1988); *Ft. Collins Telecasters*, 103 FCC 2d 978, 985-86 (Rev. Bd. 1986), *review denied*, 2 FCC Rcd 1780 (1987). In that regard, a blanket pledge to hire more employees and diminish hours spent is not enough; we have no way to check afterwards, and were we to accept such a promise where significant business interests remain, all comers would receive full-time credit. Here, and unlike, Archilla's paging business, Ruiz has no active partner; and, unlike Ruiz, Archilla has been managing a radio station *in addition to* the other business (and civic) activities pursued. At very best, Ruiz might receive part-time credit *compare Julia S. Zozaya*, 5 FCC Rcd 6607, 6607-08, even were he technically qualified, and could not therefore complete with Archilla under comparative integration.

[64] Again, we all but ignore Blanco's claim (Exceptions at 13) for a special minority preference because "Blanco is a first generation Puerto Rican of Cuban descent," thus a "minority within a minority." In *William M. Piner*, 5 FCC Rcd 441 (1990), the Commission declared that "Congress prohibited the Commission from modifying its . . . minority preferences." All applicants here would seem to be cognizable minority group members, and all such enhancements are thus self-cancelling.

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 88-433

In re Applications of

ATLANTIC CITY COMMUNITY BROADCASTING, INC.	File No. BPH-870826ME
RADIO-VISION COMMUNICATIONS II, LIMITED PARTNERSHP	File No. BPH-870826MF
HILLSIDE BROADCASTING LIMITED PARTNERSHIP	File No. BPH-870827MK
ATLANTIC WIRELESS BROADCASTING LIMITED PARTNERSHIP	File No. BPH-870827MO
D & L BROADCASTING	File No. BPH-870827NC

For Construction Permit for New
FM Broadcast Station, Channel 297B1,
Atlantic City, New Jersey

Appearances

Leonard S. Joyce, and *Shaun A. Maher* on behalf of Atlantic City Community Broadcasting, Inc.; *William E. Zimsky*, *Hugh P. Taylor*, and *Byron E. Harrison* on behalf of Radio-Vision Communications II, Limited Partnership; *Morton L. Berfield*, and *John J. Schauble* on behalf of Hillside Broadcasting Limited Partnership; *Arthur V. Belendiuk* on behalf of Atlantic Wireless Broadcasting Limited Partnership; and *Cary S. Tepper* on behalf of D & L Broadcasting.

DECISION

Adopted: December 10, 1990; Released: February 15, 1991

By the Review Board: MARINO (Chairman), BLUMENTHAL, and ESBENSEN.

Board Member ESBENSEN:

1. Before the Review Board is the *Initial Decision*, 5 FCC Rcd 3388 (1990) (I.D.), of Administrative Law Judge Edward J. Kuhlmann (ALJ), as well as the exceptions (and replies) filed by the five remaining captioned applicants.[1] Oral argument in this proceeding was heard by the Board on November 16, 1990.

2. In addition to the standard comparative issue (including comparative coverage), the ALJ conducted the hearing below on the following basic qualifications issues:

> [1]: To determine whether Atlantic City Community Broadcasting, Inc. failed to report an adverse final court determination of sex discrimination involving the conduct of Lawrence A. Hayes, an ACCBI principal.
>
> [2]: And, if it did, whether that failure and the conduct engaged in should disqualify Atlantic City Community Broadcasting, Inc.

The ALJ resolved Issues [1] and [2] against Atlantic City Community Broadcasting, Inc. (ACCBI), and determined, on a comparative basis, that Hillside Broadcasting Limited Partnership (Hillside) was the superior applicant. For the reasons that follow, we modify the I.D. and hold that Radio Vision Communications II is the preferred applicant, pursuant to the Commission's *Policy Statement on Comparative Broadcast Hearings*, 1 FCC 2d 393 (1965) (*"Policy Statement"*).

ATLANTIC CITY COMMUNITY BROADCASTING, INC.

3. ACCBI is a corporation with two stockholders: Lawrence A. Hayes, who owns all the voting shares and 60% of the equity; and Fred Anderson (a/k/a Eric Anderson) who owns 100% of the nonvoting shares and 40% of the equity. ACCBI Exh. 1. Hayes, who claims comparative credit for broadcast experience, was the General Manager of WUSS, Atlantic City, New Jersey between 1978 and 1988. ACCBI Exh. 2 at 4, and directed that station's operations. As General Manager, Hayes was also responsible for implementation and supervision of the WUSS Equal Employment Opportunity Program. Tr. 1409.

4. In the application filed by ACCBI in this proceeding (FCC Form 301), Question 10(a) inquired, in pertinent part, if any "adverse finding [had] been made, or an adverse final action taken by a court or administrative body, as to the applicant or any party" that related to employee discrimination. ACCBI answered this question unqualifiedly in the negative. ACCBI FCC Form 301, filed August 26, 1987, at 5. However, the record below revealed that Lenore Frazier, a former employee of WUSS (during the summer of 1984), Tr. 1392, had filed, on February 13, 1985, a complaint in the Superior Court of New Jersey, Law Division, against *WUSS Radio Station and ABCD Corporation and John Does One Through Ten, d/b/a WUSS Radio Station and/or ABCD Corporation*. Radio-Vision Exh. 6. The complaint specifically alleged a violation of the "New Jersey Law Against Discrimination" during the course of Frazier's employment at WUSS (while Hayes was its General Manager).

5. Frazier alleged in the first count of her complaint that she had been subjected to sexual harassment by WUSS personnel, that she had complained about this sexual harassment, but the defendants either failed to act on her complaint or condoned the behavior. Radio-Vision Exh. 6. Frazier further alleged that she was improperly terminated because of her grievances. *Id.* A jury trial was held in the matter, Tr. 1395, and the jury reached a verdict adverse to the defendants. Radio-Vision Exh. 8, specifically finding that "Lawrence A. Hayes, while in the course of his employment as general manager of the

defendant, sexually harass[ed]" Lenore Frazier. Radio-Vision Exh. 7. The jury additionally found that Frazier was discharged from her employment at WUSS as a direct result of her protests arising from Hayes' sexual overtures. Compensatory damages and punitive damages were awarded to Ms. Frazier. *Id.* By Judgment, filed June 2, 1986, the Superior Court of New Jersey accepted the jury's determinations, Radio-Vision Exh. 8, and no appeal of the verdict was filed. Tr. 1405-06.

6. Before the ALJ in the hearing below, Hayes denied that he was a defendant in the Frazier suit, claiming that the " *John Does One Through Ten* " captioned in the Frazier Complaint referred to the five members of the Board of Directors of WUSS. Tr. 1444, 1496-97. However, in his deposition held in this proceeding (on April 20, 1989), Hayes had earlier stated that, in fact, he was a defendant, Tr. 1445-46, and that the case was lost because his attorney "did not show up." Tr. 1407. At hearing, however, Hayes contended that this prior statement was not literally true, and that his attorney did appear and defend the case. *Id.* Hayes attempted to explain his deposition remark by claiming that he was only being "facetious"; he said that what he meant was he thought his attorney "did not do a good job" and was responsible for the jury's adverse determination. Tr. 1492. In ACCBI's exceptions, the claim is now made, in essence, that Hayes' remark that his attorney "did not show up" was merely street patois, suggesting that his counsel failed to provide an adequate defense. At the same time, Hayes also testified that he "badly" wants to be the successful applicant here, and that he took his deposition testimony seriously. Tr. 1501. He also admitted that he reviewed his deposition testimony after being provided a transcript, but did not make any corrections because he found his statements therein to be accurate. Tr. 1503.

7. More importantly, Hayes contented at hearing that he had answered "no" to Question 10(a) of FCC Form 301, because the Frazier lawsuit "never entered my mind as bearing upon Question 10." ACCBI Exh. 9 at 1; Tr. 1433-34. ACCBI had previously filed an "Opposition to Motion to Enlarge Issues," on July 7, 1989, which contained the "Declaration of Lawrence A. Hayes," dated July 6, 1989, avowing that he had answered "no" to Question 10(a) because (1) the lawsuit and judgment "relate to what I believe was simply an expression of dissatisfaction from a disgruntled former employee . . . "; (2) "the suit was brought against WUSS . . . I was not named in the suit . . . "; and (3) "[i]n my mind, this lawsuit did not involve discrimination. The question on the FCC application did not relate to this incident which, in my mind, amounted to blackmail by someone angry because my news director had fired her." ACCBI Exh. 10 at 3-4.

8. Hayes here proposes to be responsible for implementing ACCBI's EEO program, just as he was at the two broadcast facilities where he had been formerly employed. He executed ACCBI's Model EEO program (FCC Form 396-A) submitted with ACCBI's application, and he certified to the accuracy of ACCBI's entire FCC Form 301. Hayes claimed that, in order to complete Form 396-A, he familiarized himself with the form's instructions, Tr. 1416-17; but when completing Form 396-A, he did not actually refer to Section 73.2080 of the Commission's rules (equal employment opportunities), Tr. 1423, although Form 396-A specifically refers to that provision. 47 CFR §73.2080 specifically states that "no person shall be discriminated against in employment . . . because of . . . sex," and FCC Form 396-A expressly mentions "women," "female" or "sex" eighteen different times. Radio-Vision Exh. 9.

9. Hayes conceded here that he realized that the adverse judgment in the Frazier case might affect the renewal of the WUSS license. Tr. 1441. Additionally, although Hayes asserted in testimony that the FCC never inquired about the Frazier lawsuit, Tr. 1499, it was revealed that this agency had, in fact, telephoned him regarding this very matter. Not until Hayes was shown a copy of his own Frazier-suit deposition testimony (where he testified that the FCC had called him at WUSS about the Frazier complaint) did Hayes acknowledge that the Frazier lawsuit was a matter of concern to the FCC at the time. Tr. 1512-13. ACCBI's exceptions now contend that the subject FCC contact was solely related to an alleged problem with the WUSS "tower lights."

10. After considering the evidence, the ALJ concluded that "Hayes intentionally withheld the court's adverse finding" in the Frazier suit when executing ACCBI's FCC Form 301. I.D., para. 45. The ALJ reported (*id.*, at paras. 48-49):

> The facts surrounding Mr. Hayes' failure to report the case are not the only issue of concern. The Commission has long had rules that prohibit broadcast stations from discriminating against female employees. Indeed, since 1976, Mr. Hayes has been in charge of implementing and enforcing this prohibition at broadcast stations. That was his role at WUSS, Atlantic City, when he made the sexual overtures to Ms. Frazier and she was fired for refusing them. Mr. Hayes was also the general manager of the station and, by his own testimony, he claims that he was unsupervised in making all decisions about the station. Thus, his illegal conduct under New Jersey law was also conduct specifically prohibited by the Commission and it was conduct which he personally engaged in. Mr. Hayes' ultimate fall back position was that he thought that the only discrimination that the Commission cared about was race discrimination. There is overwhelming evidence he knew that that was not the truth.
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> * * *
>
> Mr. Hayes also claimed he did not know that the Commission was concerned about sex discrimination. At the same time he maintained he had prepared the model EEO proposal and had read the instructions which refer repeatedly to discrimination on the basis of sex . . . . During his testimony, Mr. Hayes was untruthful and withheld the true facts about his conduct. He frequently had to be confronted with objective evidence before he would agree to the facts as they really were. The likelihood is that ACCBI will not conform to Commission regulations. ACCBI is directed by Lawrence Hayes, who withheld material information about his character on Form 301, he engaged in conduct as a station manager which is contrary to Commission rules and policy, and he lied in the course of a Commission proceeding about his conduct.

11. ACCBI here claims that the ALJ erred (1) in concluding that Hayes was a defendant in the Frazier suit;[2] (2) in making adverse credibility findings with respect to Hayes; (3) in holding that Hayes intentionally failed to report the adverse final court determination in the Frazier proceeding in ACCBI's FCC application; and (4) in disqualifying it as an applicant.

12. *Discussion re ACCBI*: ACCBI's essential defense to Hayes' failure to disclose the Frazier suit is that "it never entered his mind." Exceptions at 17. The ALJ found this explanation "improbable." We have reviewed the entire body of evidence and find no substantial basis upon which to reverse the ALJ's conclusions. The record here reflects that: (1) for the past 14 years Hayes has been the General Manager of various broadcast facilities; (2) in that role (at two stations) he was solely responsible for the implementation and supervision of the Equal Employment Opportunity Program; (3) he was fearful of the consequences of the Frazier suit on the renewal of license of WUSS; (4) he was fearful of disclosure of the Frazier suit in this proceeding because "he badly wants to be the successful applicant"; (5) he believed he had a personal interest in the Frazier suit, because an adverse judgment would be detrimental to his record as a broadcaster; (6) he considered the Frazier suit a personal and professional embarrassment; (7) the jury in the Frazier suit specifically found that "Hayes, while in the course of his employment as general manager of [WUSS], sexually harass[ed]" Lenore Frazier; Frazier was discharged from WUSS as a result of her complaints and protests made because of Hayes' sexual overtures; and, as a result, compensatory and punitive damages were awarded Frazier.

13. In light of these uncontroverted findings, we agree that Hayes' negative response to Question 10(a) of FCC Form 301 was a gross lack of candor. Lack of candor is defined as an "omission, *viz.*, failure to be completely forthcoming in the provision of information which could illuminate a decisional matter." *Fox River Broadcasting, Inc.*, 88 FCC 2d 1132, 1137 (Rev. Bd. 1982). As the Commission affirmed in *Fox River Broadcasting, Inc.*, 93 FCC 2d 127, 129 (1983), lack of candor "involves concealment, evasion, and other failure to be fully informative," which can lead to the disqualification of an applicant. ACCBI's stark lack of candor here, as demonstrated by the record evidence, must result in its disqualification. We have stressed that:

> The fundamental importance of truthfulness and complete candor on the part of applicants, as well as licensees, in their dealings with the Commission is well established. *Lebanon Valley Radio, Inc.*, 35 FCC 2d 243, 258 (Rev. Bd. 1972), *review denied*, 39 FCC 2d 1099 (1973), *rev'd on other grounds sub nom. Lebanon Valley Radio, Inc. v. FCC*, 503 F.2d 196 (D.C. Cir. 1974). *See also FCC v. WOKO, Inc.*, 329 U.S. 223, 227 (1946). Since the Commission must license thousands of radio and television stations in the public interest, it must therefore rely substantially on the completeness and accuracy of the submissions made to it. *WHW Enterprises, Inc. v. FCC*, 753, F.2d 1132, 1139 (D.C. Cir. 1985); *RKO General, Inc. v. FCC*, 670 F.2d 215, 232 (D.C. Cir. 1981), *cert. denied*, 456 U.S. 927 (1982). It is manifest that applicants before the Commission "have an affirmative duty to inform the Commission of the facts it needs in order to fulfill its statutory mandate." *Id.* at 232.

Mid-Ohio Communications, Inc., 104 FCC Rcd 572, 598-599 (Rev. Bd. 1986), *review denied*, 5 FCC Rcd 940 (1990), *recon. denied in part and dismissed in part*, 5 FCC Rcd 4596 (1990), *appeal pending sub nom., Mid-Ohio Communications, Inc. v. FCC*, No. 90-1433 (D.C. Cir. August 21, 1990). And, as the Commission underscored in its *Character Policy Statement*, 102 FCC 2d 1179, 1209-11 (1986):

> We believe it appropriate to give misrepresentation specific consideration in the context of this *Policy Statement*. The act of willful misrepresentation not only violates the Commission's Rules; it also raises immediate concerns over the licensee's ability to be truthful in any future dealings with the Commission.
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> * * *
>
> As we have stated, the trait of 'truthfulness' is one of the two key elements of character necessary to operate a broadcast station in the public interest. The Commission is authorized to treat even the most insignificant misrepresentation as disqualifying.
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> * * *
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> We believe it necessary and appropriate to continue to view misrepresentation and lack of candor in an applicant's dealings with the Commission as serious breaches of trust. The integrity of the Commission's processes cannot be maintained without honest dealing with the Commission by licensees.

14. On this record, we discern no basis for disregarding the ALJ's credibility determinations with respect to Hayes. While we have, on rare occasion, overturned such findings, *see, e.g., Richardson Broadcasting Group*, 5 FCC Rcd 5285, 5287 (Rev. Bd. 1990), the Board is generally enjoined to defer to the credibility findings of an ALJ, *TeleSTAR, Inc.*, 2 FCC Rcd 5, 12-13 (Rev. Bd. 1987), and it does so regularly where substantial evidence supports those findings. *See e.g., Rebecca L. Boedker*, 5 FCC Rcd 2855, 2855-2860 (Rev. Bd. 1990); *Cannon Communications Corp.*, 5 FCC Rcd 2695, 2700-2703 (Rev. Bd. 1990); *Advanced Broadcast Technologies, Inc.*, 5 FCC Rcd 1960, 1964 (Rev. Bd. 1990), *aff'd* , 5 FCC Rcd 7651 (1990); *Adlai E. Stevenson IV*, 5 FCC Rcd 1588, 1589 (Rev. Bd. 1990); *Tri-State Broadcasting Co., Inc.*, 5 FCC Rcd 1156, 1169-1173 (Rev. Bd. 1990), *recon. denied*, 5 FCC Rcd 3727 (Rev. Bd. 1990). Given the totality of the record evidence here, we concur that ACCBI must be disqualified for a glaring lack of candor in its failure to inform the Commission of the Frazier suit.[3] *RKO General, Inc. v. FCC*, 670 F.2d 215 (1981), *cert. denied*, 456 U.S. 927 and 457 U.S. 1119 (1982).

HILLSIDE BROADCASTING LIMITED PARTNERSHIP

15. The ALJ determined that Hillside was the comparative winner below, ambivalently declaring its proposal to be "as plausible as any other made in this proceeding." I.D., para. 73. Hillside purports to be a limited partnership with one general partner, Della B. Baeza (50% equity interest), and one limited partner, her husband, Mario L. Baeza (50% equity interest). Hillside Exh. 1. The initial capital contribution of $10,000 was made jointly by Mr. & Ms. Baeza, while subsequent contributions are to be made 30% by the wife and 70% by the husband. Hillside Exh. 2 at 3. Ms. Baeza proposes to work full-time as the General Manager, Hillside Exh. 3 at 3, and claims that she will exercise supervisory control over the station's operation. *Id.* Ms. Baeza lives in Englewood, New Jersey, some 150 miles distant from Atlantic City, but says she will establish an *additional* residence in Atlantic City, commuting between Englewood and Atlantic City on weekends and "once or twice a week." *Id.* Ms. Baeza has two children (2-1/2 years old and 14-1/2 months old, respectively, as of the day of her hearing testimony, July 20, 1989).

16. Ms. Baeza learned of the availability of the Atlantic City frequency from Hillside's counsel, Morton Berfield, who she met through her spouse. Mr. Baeza owned 14% of Magna Media Corporation which, at the time Hillside filed here, had pending before the Commission applications for two New York facilities where Mr. Baeza himself proposed to integrate full-time into management. Tr. 1033-34. In other words, while Mrs. Baeza was proposing to integrate full-time into this Atlantic City facility, Hillside's "limited partner," Mario Baeza, was himself proposing to integrate full-time into the management of *two* New York City radio stations (a proposal rejected by the presiding ALJ in *RKO General, Inc. (WOR)*, 3 FCC Rcd 4243 (ALJ 1988)). Mr. Baeza's New York integration proposal was denied because of a patent conflict between his FCC proposal and his law firm position, where he averaged in excess of 65 hours per week, a work-week he did not intend to reduce. *See id.*, at 4245-46. Although Magna Media ultimately dismissed its New York City applications (in exchange for $3,500,000, I.D., para. 26), and Ms. Baeza was "aware" of her husband's Magna Media integration proposals during the co-pendency with this instant application, Tr. 1593, she claimed at hearing that she did not discuss with her "very busy" husband *his* pending integration proposals for New York City when she made *her* full-time pledge here. Tr. 1037-38. Indeed, she claims she merely asked him if he was willing to "invest" in her Atlantic City proposal.[4]

17. Ms. Baeza testified (Tr. 1035-1038; emphases added):

[Counsel for Atlantic Wireless]: Now did your husband assist you in preparing your application?

[Ms. Baeza]: No.

[Q]: Your husband is a limited partner in this application, is he not?

[A]: Yes.

[Q]: How is it that he became a limited partner?

[A]: Basically, I asked him to be.

[Q]: Let me ask you this. Did you discuss the possibility of him becoming a general partner?

[A]: No.

[Q]: That was something that was not discussed?

[A]: Never discussed.

[Q]: You came to him then and told him he would be a limited partner or nothing at all?

[A]: I basically came to him initially and said, this is what I want to do. He knew I was interested in doing it and, obviously, I needed some help financially. Not obviously, but I said, would you be willing to invest financially, and he said, knowing this was something I wanted to do, yes, but he indicated clearly that he was much too busy to have any kind of other input, and I said I'm not asking you for any work, I'm just asking if you're interested in investing.

[Q]: When you say he was much too busy, what was he much too busy doing?

[A]: He's a full-time partner in a law firm in New York City. In addition to that, he's a professional musician and is active in much of his free time writing music. In addition, he sits on a commission for Governor Cuomo called the Commission on Law and Science, which is in the process of proposing legislation on the issues of abortion and surrogate mother-hood which, as you can imagine, is a real political hotbed in New York right now.

[Q]: And he --

[A]: I could go on. *My husband is very busy.*

[Q]: *And he is an integrated principal in the RKO proceeding?*

[A]: *Exactly.*

[Q]: *Was that discussed at the time?*

[A]: *No.* The fact that he had another -- he had that before I married him, and *we didn't discuss it much*, and it was just very clear to me that he would have no time to do anything involving this application.

[Q]: Obviously, your husband is interested in running a radio station, is he not?

[A]: At one point he was.

[Q]: In August of '87 he was.

[A]: Yes.

[Q]: And what you're telling me --

[A]: I don't know if he was interested in running it. He was going to be involved, but I don't think he was going to be the general manager.

[Q]: *He was going to work there, wasn't he?*

[A]: *Sure.*

[Q]: *Full time, 40 hours.*

[A]: Running it, that's a little different.

18. Further, though Ms. Baeza testified that she was "interested" in being involved in broadcasting, Tr. 1032, the ALJ found that she did not participate in the preparation of Hillside's application in any meaningful manner. In point of fact, Berfield flew to New York a few days before the Hillside application was filed and met Ms. Baeza at her husband's law office. Tr. 1041. Ms. Baeza there reviewed the Hillside application, Tr. 1039, which had been pre-prepared by Berfield. The record also reveals that counsel, not Baeza (1) retained the engineer, (2) advanced funds for the engineer, (3) arranged for publication of public notices, (4) prepared the partnership agreement, (5) filed the agreement with the state, (6) located the transmitter site, and (7) established Hillside's public inspection file. As Ms. Baeza testified (Tr. 1038-1047; emphases added):

> [Counsel for Atlantic Wireless]: Now, how -- could you tell me how your application was actually put together? How did the documents get up to you, the actual application and things get up?
>
> [Ms. Baeza]: Well, the actual application -- as I said, when Mort [Berfield] first called me, we had a brief conversation, and I said, yes, I would be interested and let me get back to you and let you know how I'd like to work it out, and I got back to him, and we had a couple of phone calls. I can't really remember dates. And shortly before the application was filed, I mean literally days, he flew up to meet me, and the application had been prepared based on discussions we had had, and he said he would take care of the engineering aspects of it, which I reviewed when he came up to see me, and I signed it at that point, and we talked about the fee schedule on the phone, and I think I signed -- I signed various places in the application, and I think I also at that point got a copy of the Limited Partnership Agreement, which he had drafted, and I read over it, based on what we had talked about.
>
> [Q]: Let's start with that. He drafted the partnership agreement?
>
> [A]: I don't know if he drafted it. *My sense is he used a form.*
>
> [Q]: Or someone in his office?
>
> [A]: *Or used a form. It looked pretty standard.*
>
> * * *
>
> [Q]: Do you know where you met in New York?
>
> [A]: We used an office in my husband's law firm. We used a conference room my husband's secretary sort of set up for us.
>
> [Q]: Was your husband present at the meeting?
>
> [A]: No.
>
> [Q]: Tell me, who retained your engineer?
>
> [A]: Well, I retained him insofar as I paid for him, but Mr. Berfield found him for me.
>
> [Q]: He found him, okay. *And prior to filing your application, did you ever speak with your engineer?*
>
> [A]: *No.*
>
> [Q]: *Have you ever spoken with your engineer?*
>
> [A]: *No.*
>
> [Q]: *Have you ever received a bill from your engineer?*
>
> [A]: *No, not directly. I just get an itemized bill from Mr. Berfield, and it includes engineering fees.*
>
> [Q]: And as I understand it, Mr. Berfield advanced any funds that would be necessary to get your engineer started; is that correct?
>
> [A]: Yes. I would assume so, and bill me subsequently, you mean?
>
> [Q]: *You never saw a bill on your engineer's letterhead?*
>
> [A]: No.
>
> [Q]: *And you never saw a breakdown of the bill; is that correct?*
>
> [A]: *I never saw a copy of a bill, no.* The bills to me from Mr. Berfield were pretty itemized insofar as he says engineer's time and he says fees for filing and that sort of thing.
>
> [Q]: I guess we're going around in circles, but the only bill you ever saw was from Mr. Berfield; is that correct?

[A]: Yes.

[Q]: Have you ever visited Atlantic City?

[A]: Yes.

[Q]: When was that?

[A]: I visited several times, but the last time was -- it was shortly after we filed the application. So, I think it was September, either late September, early October of 1987.

[Q]: September, October 1987. What was the purpose of your visit?

[A]: Basically, to refamiliarize myself with the city, to look around, to get to know the city.

[Q]: *Who was responsible for locating your transmitter site?*

[A]: *Mr. Berfield was primarily.* I'm aware he had some consulting assistance.

[Q]: *Have you ever been to the Brigantine Inn?*

[A]: *No, I never have.*

[Q]: *Just for the record, the Brigantine Inn is where your site is located. Have you ever spoken to the site owner or the agent of the site owner?*

[A]: *Never spoken to him, no.*

* * *

[Q]: *Have you ever visited your public inspection file?*

[A]: *No.*

[Q]: *Never inspected it to see if it was all right?*

[A]: *No. I assumed it was.*

[Q]: Now, tell me, did the Hillside applicant prepare a budget?

[A]: You mean me?

[Q]: We can say you, but --

[A]: Yes.

* * *

[Q]: Now, let's break it down a little bit. What about your engineering costs; who provided those?

[A]: You mean figures?

[Q]: Auxiliary power, that kind of thing.

[A]: I would assume Mr. Hoover, our engineer, did.

[Q]: You're only assuming, though.

[A]: No. I think Mr. Hoover -- Mort [Berfield] made it clear he did it with Mr. Hoover, asked Mr. Hoover for his consulting advice on what things cost.

[Q]: *But, you never discussed it with Mr. Hoover?*

[A]: *No.*

[Q]: *So, Mr. Berfield presented you with all the figures, the cost figures involved, the transmitter and studio equipment, all that was presented to you by Mr. Berfield?*

[A]: *Yes.*

[Q]: Did you make any changes to those facts and figures?

[A]: The engineering, no.

[Q]: Did you get any sort of documentation as to how those figures were put together?

[A]: No.

[Q]: What about other information that went into your budget; *did you actually gather information on what would go into your budget?*

[A]: *On the budget, no. We just talked about it on the phone and, when I saw it, I thought it made sense.*

[Q]: Mr. Berfield basically provided you with numbers, and you agreed to them; is that correct?

[A]: We talked about a couple of them. I'm not sure I agreed to all of them.

[Q]: Well, did you provide any numbers?

[A]: I questioned one number, but --

[Q]: Which one was that?

* * *

[A]: Basically, one of the -- actually, on the equipment figures list, I thought it looked a little high.

[Q]: And did you change it?

[A]: No, we didn't change it.

[Q]: Did you then go and make some kind of independent analysis of whether it was high or low?

[A]: No, I didn't.

[Q]: You just questioned it?

[A]: Yes.

[Q]: But that was it? Everything else you pretty much accepted as is?

[A]: Yes, I thought so.

[Q]: Now, tell me, this budget, was it a written budget?

[A]: Yes.

[Q]: Was it typed up?

[A]: Yes.

[Q]: Who did the typing on it?

[A]: *I assume Mr. Berfield's secretary.*

[Q]: But you didn't?

[A]: No.

19. Additionally, Ms. Baeza testified at her deposition that the Hillside auxiliary power proposal consisted of "an auxiliary *antenna* [which] would operate in the event of a problem with the main antenna." Tr. 1057 (emphasis added). Ms. Baeza envisaged that there would be a microwave link from the studio to the main antenna and that "if something went wrong" a backup *antenna* would be necessary. She represented that she had even received an equipment proposal for the "secondary *antenna.*" Tr. 1058 (emphasis added). However, at that point in her deposition, Berfield attempted to physically restrain Ms. Baeza from testifying further about the "secondary *antenna.*" Ms. Baeza later changed her story concerning auxiliary power, only after she had an opportunity to confer with counsel. Ms. Baeza claims that she now understands that her auxiliary proposal actually involves a backup *power* source for station operation, not an antenna. With respect to the underlying Hillside business documents, the ALJ found that Ms. Baeza has no power to terminate the partnership agreement without the express affirmative consent of her husband. Tr. 1067; Hillside Exh. 2 at ¶ 6. Hillside has no bank account, although the partnership agreement states that the general partner will establish one. Tr. 1047; Hillside Exh. 2 at ¶ 17.

20. *Discussion re Hillside:* All the competing applicants (save Atlantic Wireless) claim that Hillside is entitled to no integration credit whatsoever, because, *inter alia*, Ms. Baeza has not adequately demonstrated that she can effectuate her proposal as General Manager. We agree, and decline to affirm the ALJ's award of integration credit to Hillside. As we recently held in *Anchor Broadcasting*, 5 FCC Rcd 2432, 2435 (Rev. Bd. 1990): "The case law is long and unwavering that every applicant has the burden of proof under the standard comparative issue, and must convincingly support each component element thereof." The Commission has reiterated this bedrock precept on numerous recent occasions. *Royce International Broadcasting*, 5 FCC Rcd 7063 (1990); *Miami Latino Broadcasting Corp.*, 5 FCC Rcd 7321 (1990); *Progressive Communications, Inc.*, 5 FCC Rcd 7058 (1990). Here, we can place no confidence in Ms. Baeza's purported full-time integration pledge in view of the fact that, despite her two infant children and her "very busy" husband's co-pending proposal to integrate full-time into two New York City radio stations (while yet maintaining his Herculean law firm and other duties), she did not discuss (or discuss "very much") with her husband their respective north/south integration proposals. Assuming, *arguendo*, her testimony to be true, we find that the married Hillside partners have not explored meaningfully the time demands on each, and mutually determined how *all* of these demands could be met simultaneously. Nor will we speculate on what a well-considered discussion of these myriad demands *might* have produced, had the Hillside partners actually discussed the matter thoroughly. As it is, the record leaves Ms. Baeza's proposal appearing rather half-baked, and similar in many respects to a rejected proposal in *Anchor*. There, we also denied integration credit to a spouse because, in part, the husband and wife had not thoroughly discussed care of their minor children. 5 FCC Rcd at 2440-41 n. 19. As we there observed (5 FCC Rcd at 2436):

> Integration credit has likewise been withheld where direct or salient circumstantial evidence leaves serious questions as to whether a particular equity principal, pledging to relocate to another community so as to personally manage the station on a full-time basis, will earnestly forsake a current residence. Again, while the Commission will conventionally accept a simple pledge to relocate, any evidence to the contrary will be weighed simultaneously, and we will not always accept the bare pledge. *See, e.g., Knoxville Broadcasting Corp.*, 103 FCC 2d 670, 686-689 (Rev. Bd. 1986) (integration credit denied despite pledge to relocate); *Berryville Broadcasting Co.*, 70 FCC 2d 1, 11-13 (Rev. Bd. 1978) (integration credit denied, in part, because of dubious pledge to relocate). [And this is] not only with respect to pledges to relocate a permanent residence, but with respect to all facets of an "integration" proposal [as well].

As we earlier explained in *Knoxville* (103 FCC Rcd at 687-688):

> In practice, it lies with the applicant advancing an "integration" proposal to allay any serious questions which may bear upon likely effectuation of that proposal, despite strong circumstantial evidence raising inevasible doubts. Sometimes an applicant is successful in dispelling the serious doubts that have arisen. *See, e.g., Central Texas Broadcasting Co., Ltd.*, 90 FCC 2d 583, 586-589 (Rev. Bd. 1982) (restoring integration credit rejected by ALJ) (majority opinion), *recon. denied*, FCC 82R-77, released December 22, 1982; *aff'd*, FCC 83-415, released September 21, 1983 (Comm'n), *aff'd mem. sub nom. Blake-Potash Corp. v. FCC*, No. 83-2112 (D.C. Cir. filed April 26, 1985). Sometimes an applicant is, on the slant of the record, unpersuasive. *See, e.g. KIST Corp.*, 99 FCC 2d 173, 183 n. 22 (Rev. Bd. 1984), *modified on other grounds*, FCC 85-512, released September 24, 1985 (Comm'n), *appeal pending sub nom. United American Telecasters, Inc. v. FCC*, Nos. 85-1663, etal. (D.C. Cir. filed October 15, 1985). And, as suggested by the court's accompanying memorandum in *Blake-Potash, supra*, "substantial evidence" on the question of the likelihood of the effectuation of a particular applicant's "integration" proposal may support, legally, either predictive judgment.

21. In *Knoxville*, as in the older case of *Berryville Broadcasting Co.*, 70 FCC 2d 1, 11-12 (Rev. Bd. 1978), we denied integration credit where a principal's relocation pledge appeared to conflict severely with ambient circumstances. In *Berryville*, it is recalled, the Board refused to credit a proposal to commute between the "family" home and a secondary residence (already purchased) in the community of license, a commute requiring a 3-hour round-trip. Similarly, Hillside here has failed to persuade us of the likelihood of a permanent 300-mile round-trip commute, several times a week. As the Commission recently reiterated:

> The applicant has the evidentiary burden to demonstrate persuasively that she can overcome facially questionable aspects of her integration proposal. *See, e.g., Margaret Garza*, 1 FCC Rcd 1294 n.1 (Rev. Bd. 1986).

Julia A. Zozaya, 5 FCC Rcd 6607 (1990). *See generally also Royce International Broadcasting*, 5 FCC Rcd 7063 at ¶ 7 (1990) (each applicant bears burden of proof under standard comparative issue where externalities "cast substantial doubt on whether the proposed integration into station management is likely to be effectuated"). Here, the record does not reflect at all that Ms. Baeza "demonstrate[d] persuasively that she can overcome the *facially questionable aspects* of her integration proposal," or that her proposed full-time integration will be "permanent" within the requirements of the *Policy Statement, supra*, 1 FCC 2d at 395 n.6 (1965).

22. Finally, Ms. Baeza's testimony reveals that Hillside's application is not a well-reviewed, well-considered, or even thoroughly understood proposal. It is, instead, the boilerplate paper proposal of her attorney, to which she passively acquiesced in almost every aspect, without study, without investigation, and seemingly without care. All of this is substantiated by her hearing testimony (*see* paras. 17-19, *supra*). Hillside is the epitome of the "paper proposal" (about which the Commission has long been wary, *see Cowles Broadcasting, Inc.*, 86 FCC 2d 993, 1016 (1981) (subsequent history omitted)), with a substance no deeper than the medium on which it was submitted. *See generally Tulsa Broadcasting Group*, 2 FCC Rcd 6124, 6128 (Rev. Bd. 1987) (where applicant principal displays little knowledge of specifics of application and counsel appears to be "true driving force" a "very close look" must be given before integration credit awarded), *review denied*, 3 FCC Rcd 4541 (1988). As the testimony we have quoted discloses, Ms. Baeza signed a boilerplate partnership form not even knowing of its origin; she has never met or spoken to the engineer or seen an engineering bill; she has visited Atlantic City only once, and never saw the transmitter site or communicated with its owner; she has never seen or inspected her public file; she merely "assumed" that the estimates of the engineering costs were provided by the engineer, but never discussed them; and, finally, as to the overall budget, she gathered no information, spoke of it only by phone "a couple of times" with counsel, but "*thought* it made sense." Hillside is entitled to no integration credit whatsoever.[5]

D & L BROADCASTING

23. D & L is a general partnership with two principals, Reginald N. Lavong (51% equity) and Sandra DelGiorno (49% equity). D & L Exh. 1 at 1. Lavong proposes to work full-time as the General Manager, supervising station affairs. D & L Exh. 3 at 1. DelGiorno proposes to work full-time as the "community relations director." D & L Exh. 4. Lavong and DelGiorno live in Philadelphia. D & L Exh. 4 at 4; D & L Exh. 3 at 1. DelGiorno has had another home in Longport, New Jersey (within the proposed 70 dBu contour of D & L's facility) since July 1987, where she spends most of her time during June, July, and August; she has spent portions of each summer there for 17 years. D & L Exh. 4 at 2. If the D & L application is granted, she claims she will relocate to Longport. She currently votes, works (as manager of her husband's medical office), and has her car registered in Pennsylvania. Tr. 1350, 1357. Lavong, currently a broadcast station manager in Philadelphia, initiated the D & L proposal for Atlantic City, and sought out DelGiorno to join him because she would improve D & L's comparative posture on the criteria of local residence, civic participation, and female enhancement, all qualities that Lavong personally lacks.

24. However, the ALJ found that DelGiorno had not participated in the formation and pursuit of D & L's proposal, and that Lavong had done everything, including determining that D & L would organize as a general partnership. I.D., para. 60. Moreover, DelGiorno admitted that she will defer to Lavong on station policy and programming; her role will be to merely act as "liaison" between the station and the community. In fact, she has not been assigned any specific policy or programming job; that, too, was decided by Lavong, and there was no discussion between them before he made that choice. Additionally, Lavong has the authority to remove DelGiorno from her role at the station at will, Wireless Exh. 4, which is undisputed by D & L.

25. The ALJ also observed that the D & L partnership agreement "is not a good guide" to the relationship between DelGiorno and Lavong, and that Lavong himself appears uncertain about how votes will be cast in the

day-to-day operation of the partnership business. At his deposition, Lavong claimed that the general partners would have *equal* votes; however, at hearing he claimed that voting would be done according to each partner's share of the equity. The ALJ also determined that the partnership agreement has not been followed, even where it does provide a method for conducting partnership business. For example, the agreement provides that there is to be a partner contribution schedule, but none has ever been established. The agreement also requires the partners to establish books of account, but no such books have been created. I.D., para. 61.

26. D & L 's opponents question whether DelGiorno is a general partner who will influence policy and play an important role in management. It is their argument that she will not actually perform management functions at the facility, and that she was selected only for the short term benefit she would bring to D & L's comparative proposal.

27. In light of the foregoing, the ALJ determined that "it cannot be concluded that Ms. DelGiorno has a *bona fide* role in the D & L partnership." The ALJ found that she has no real management role at the station, and that she has had no part in developing D & L's proposal. The ALJ held that it appears that DelGiorno had been selected merely to improve D & L's paper proposal without any intention that she act as a partner and hold policy and managerial roles at the station. Thus, the ALJ concluded that, because DelGiorno's participation was not a "good faith" business decision, "its proposal is a sham and comparative credit will not be given." I.D., para. 62. Before the Board, D & L argues that each of the negative findings and conclusions of the ALJ are in error, and that it is a *bona fide* applicant entitled to full integration and enhancement credits.

28. *Discussion re D & L*: In *Royce International Broadcasting*, *supra*, at ¶ 7, the Commission recently reiterated that:

> It is axiomatic that integration credit is due only when "the applicant sets forth a specific integration proposal; the applicant adheres to that proposal; and there is reasonable assurance that the plan will be carried out." *Coast TV*, 5 FCC Rcd 2751, 2752 ¶ 8 (1990). *See also Bradley Hand & Triplett*, 89 FCC 2d 657, 662-663 ¶ 8 (Rev. Bd. 1982).
>
> * * *
>
> We believe that this principle -- which required applicants to establish the overall reliability of their integration proposals to obtain comparative credit -- necessarily applies to subsidiary questions like whether the applicant's described ownership structure accurately reflects the manner in which control will be exercised. To the extent an applicant's conduct or intentions are demonstrably at odds with its described ownership structure, the applicant has unquestionably failed to meet its burden of showing that its proposal is reliable.

29. We easily affirm the ALJ's rejection of integration credit for DelGiorno. While it is true, as D & L asserts, that the Commission permits applicants to structure their proposals in a manner believed most likely to prevail in a comparative proceeding so long as the proposal is *bona fide*, *KIST Corp.*, 102 FCC 2d 288 n. 9 (1985); *see also Tequesta Television, Inc.*, 2 FCC Rcd 7324, 7325 (Rev. Bd. 1987), it is similarly well-established that integration will only be awarded when the applicant has sustained its burden of proof and demonstrated that a principal has both a meaningful ownership interest and proposes a meaningful management role. *See Royce International* and *Coast TV*, *supra*. Here, the totality of the record evidence reveals that DelGiorno's selection as a purported "general partner" was made solely to garner additional comparative credit, and that she will have no meaningful role in the day-to-day operation of the facility. For example (as ACCBI points out in its Exceptions at 3-5), DelGiorno admitted during cross-examination she had nothing to do with, and was not aware of, the proposed budget for constructing and operating the station. Tr. 1309. With respect to her proposed role at the facility, DelGiorno admitted that Lavong (1) could fire her as an employee if he so decided; (2) could set her employee compensation at any amount; (3) could change the station's format without her consent; and (4) establish every facet of station policy. Tr. 1351-1352. DelGiorno conceded upon questioning by the ALJ (Tr. 1310):

> [ALJ]: Would it be correct to say that Mr. Lavong prepared the application and gathered all of the information and things that were necessary for the application?
>
> [DelGiorno]: Yes, Your Honor.
>
> [ALJ]: You didn't independently undertake any of those activities?
>
> [DelGiorno]: No.

As the Commission recently noted in *Cuban-American Limited*, 5 FCC Rcd 3781, 3786 n. 4:

> Two of the three individuals proposed to be integrated by [the applicant] have shown no active participation in or knowledge of the applicant's affairs in their current role as directors . . . . This circumstance undermines the reliability of their proposals to be meaningfully integrated into management and thus warrants credit for at most only one-third of its ownership. *See Bradley, Hand and Triplett*, [89 FCC 2d 657 (Rev. Bd. 1982)]. *Cf. Jarad Broadcasting Company, Inc.*, 1 FCC Rcd 181, 183 (Rev. Bd. 1986) (subsequent affirmances omitted) (integration credit denied where sole voting shareholder "revealed both her lack of knowledge and her passivity concerning many significant aspects" of application).

Because we support the ALJ's denial of integration credit to DelGiorno, and inasmuch as D & L could not prevail over Radio Vision even if we ceded a 51% integration credit for Lavong's equity, we need not decide whether D & L's entire integration proposal was so faulty, *ab initio*, as to affirm the denial of all such credit. *See generally Progressive Communications, Inc.*, 5 FCC Rcd 7058, 7059 (1990) (all credit denied where applicant's "integration

proposal cannot be relied upon to depict accurately the respective roles of the parties in interest in the proposed operation of the station"). Nor need we decide whether the proposal was so contrived as to be labelled, as did the ALJ, an utter sham of the type reflected in *Royce International Broadcasting*, where the role of an alleged general partner was grossly exaggerated so as to artificially skew the comparative enhancements.[6]

ATLANTIC WIRELESS BROADCASTING

30. Wireless is a limited partnership with one general partner, Richard Young (30% equity owner), and three limited partners: Andrew B. Burak (who owns 30% of the equity), and Noel Eisenstat and William L. Busch (who each own 20% of the equity). Wireless Exh. 1 at 1. Young proposes to become the full-time General Manager of the facility. Wireless Exh. 2 at 1. He will supervise the operations, develop station policy, and generally oversee the facility. *Id.* Young has lived in Atlantic City since 1987 and, although he has participated in civic affairs, he began these civic activities after the Wireless application was filed. Wireless Exh. 2 at 2.

31. The ALJ determined that the Wireless limited partnership agreement does not prohibit the limited partners from performing services for the partnership. Hillside Exh. 6 at 5-7. Nor are the limited partners restricted from communicating with the general partner on matters pertaining to the day-to-day operation of its facility. *Id.* Indeed, there is no provision in the partnership agreement prohibiting limited partners from providing services to the station. *Id.*

32. Young did not know two of the limited partners (Busch or Burak), who were brought to the partnership by counsel. Tr. 1213-14. He has never discussed the proposal with the limited partners, Tr. 1242, 1245; he has not discussed the partnership agreement with them, Tr. 1214-15; and, Young has not provided any information about himself to the limited partners. Tr. 1233. Young merely signed the partnership agreement after he received it from counsel. Tr. 1218-19.

33. The ALJ ultimately determined that Wireless was only entitled, at best, to 30% integration credit for Young's general partnership interest, concluding that (I.D., para. 57):

> Wireless' response that the general partner, Richard Young, certified that he would be insulated carries little meaning in the context of Wireless' proposal. The partners never discussed the partnership agreement; they do not know one another. Indeed, Mr. Young had not met all the limited partners when he signed the agreement. If they have any intentions with regard to the facility, Mr. Young has no way of knowing what they are. Mr. Young did not participate in preparing the partnership agreement and he signed it without questioning a single provision. There is no evidence that he insured that he would be insulated before he certified. Under such circumstances the Commission has little choice but to look to the face of the agreement and in that respect the Wireless partnership agreement lacks the necessary insulating provisions. At most, Wireless is entitled to integration credit for Mr. Young's proposal to manage only to the extent he holds equity.

34. *Discussion re Wireless*: None of the applicants (save Wireless) except to the ALJ's determination to award this applicant only 30% integration credit. Wireless argues that the ALJ was in error, and that it should be awarded full 100% integration credit for Young's participation in the venture. We agree with the ALJ that there is no assurance that the limited partners are sufficiently insulated to insure that they will not be involved in the on-going business activities of Wireless. It is precisely this type of arrangement that the Commission has found wanting in *Royce International*, *supra*, and *Coast TV*, *supra*. At best, Wireless is entitled to no more than 30% integration credit for Young's proposal as general manager, which is insufficient for it to prevail in this proceeding.[7] Additionally, although none of the competing applicants except to the award of only 30% integration credit to Wireless by the ALJ, we observe that the entire structure of the applicant, its partnership agreement, and the fact that the purported "general partner" was an utter stranger to the investor-limited partners, raises obvious questions as to whether Wireless is a sham of the character depicted in *Poughkeepsie Broadcasting Limited*, 5 FCC Rcd 3374 (Rev. Bd. 1990); *Metroplex Communications, Inc.*, 5 FCC Rcd 5610 (1990), *aff'd* , 5 FCC Rcd 5610 (1990); *Carta Corporation*, 5 FCC Rcd 3696 (Rev. Bd. 1990); and, most recently in *Mableton Broadcasting Company, Inc.*, 5 FCC Rcd 6314 (Rev. Bd. 1990). However, because Wireless cannot prevail here, we will not, *sua sponte*, address these considerations further.

RADIO-VISION COMMUNICATIONS II

35. Radio-Vision is a limited partnership with one general partner, Joseph M. Jacobs, who owns 20% of the equity, and four limited partners: George Polis and Maurice Stone, who each own 10% of the equity; a partnership, 1013 New Road Partnership, which owns 8% of the equity, and a corporation, Boardwalk Communications, Inc. (BCI), a former applicant in this proceeding (which now holds 52% of the equity as a result of a merger agreement.) *See Memorandum Opinion and Order*, FCC 89M-1676, released June 16, 1989.

36. Jacobs, the sole general partner, proposes to work full-time as the station's General Manager. Radio-Vision Exh. 3 at 1. He will formulate and implement station policy and supervise day-to-day operation. *Id.* Jacobs currently practices law in Atlantic City as a sole practitioner. Tr. 745. He represents, *inter alia*, the Atlantic City Board of Education and various development companies. Tr. 747-48. He proposes to abandon his practice and will so notify his clients when he leaves. Radio-Vision Exh. 3, at 1-2. He has lived in Atlantic City most of his life (except between 1977-81, 1981-84 and September 1984 to February 1985). *Id.*, at 2. Jacobs, a minority male, has participated in numerous local civic activities. *Id.*, at 2-6.

37. The BCI/Jacobs merger resulted in BCI assuming 80% of the obligations incurred by Radio-Vision in prosecuting its application, up to $100,000. Radio-Vision Exh. 1. Jacobs will contribute 8.33%, Polis and Stone 4.17% each and 1013 New Road Partnership 3.33%. *Id.* The construction and operation costs, which Radio-Vision projects will not exceed $400,000, are to be paid 60% by BCI, 16.67% by Jacobs, 8.33% by Polis, 8.33% by Stone, and 6.67% by 1013 New Road Partnership. *Id.*, at 8.

Capital calls beyond the $100,000 and $400,000 may be made "only with concurrence of the owners of a majority of the partnership's equity Ownership Interests."

38. The ALJ concluded that Radio-Vision was only entitled to 20% integration credit for Jacobs because (I.D., para. 69):

> Here, because one limited partner controls 52% of the entity, that limited partner will have control over whether the entity raises money and how it will do so. Under the circumstances, there is every reason to believe that BCI will exercise influence or control over the ongoing business under Radio-Vision's partnership agreement. *Coast TV*, FCC 90-120, released April 27, 1990, at ¶ 16.

Only one applicant (D & L) has filed any exceptions as to Radio-Vision's proposal, claiming that Radio-Vision is a sham, entitled to no integration credit whatsoever.

39. *Discussion re Radio-Vision*: Based upon our review of the entire record evidence, we find no sufficient reasons to reduce Radio-Vision's claimed 100% integration credit, or that limited partner BCI will exercise influence or control over the facility. Jacobs, the sole general partner, is responsible to provide his *pro rata* share of costs and expenses, and is personally liable for all debts of the partnership to third parties, while the limited partner's liability for partnership debts is limited to the amount to which they are obligated to contribute to the partnership. *See* Radio-Vision Exh. 1, Att. A, Articles 3.04, 4.06, 5.04. Additionally, Radio-Vision's limited partners are specifically prohibited by agreement from (1) exercising control over the day-to-day operations of partnership business, and (2) "becom[ing] involved in any material respect in the management and operation" of the proposed facility. *Id.*, Article 4.04(2).

40. The Radio-Vision partners are obligated to contribute $100,000 for prosecution expenses and $400,000 for construction and initial operation of the facility. The ALJ concluded that there is "no assurance that these amounts will not be exceeded," and that questions are raised as to BCI's ability to actually control future operation of Radio Vision's facility. I.D., para. 68. However, we do not share the ALJ's perception that such questions as to future control are extant; nor do we find Radio-Vision's estimates to be unreasonable, are likely to be exceeded, or, the fact that they are "estimates," to be detrimental to Radio-Vision's application. Indeed, Jacobs has warranted to the partnership that (Radio-Vision Exh. 1, Att. A, Article 8.05):

> He has net liquid assets or will obtain a loan commitment sufficient to continue the prosecution of the application of the Partnership without regard to capital contributions by any or all of the limited partners.
>
> * * *
>
> He has obtained or will obtain on behalf of the Partnership . . . a commitment from a lending institution expressing its present firm intention to lend the Partnership sums sufficient to construct and operate the station for three (3) months without reliance on revenues.

In this regard, we note that Jacobs testified at hearing that he has, in fact, obtained such a commitment from the National Westminster Bank, and that he has personal assets in excess of the amount needed to construct and operate as proposed. Tr. 815-816. Moreover, the limited partners have done no more than make a reasonable effort to limit their liability; and, as we recently observed, "the Commission's bedrock perception of a legitimate limited partnership" is a financial contribution coupled with limited liability. *Carta Corporation*, 5 FCC Rcd 3696, 3697 (Rev. Bd. 1990), *review denied*, *Fresno FM Limited Partnership*, 5 FCC Rcd 7261 (1990). In *Carta*, we recalled the Commission's description in *Minority Ownership*, 92 FCC 2d 849, 854 (1982):

> Essentially, a limited partnership is a business enterprise composed of: (1) one or more general partners who exercise control over the business affairs and who are personally liable for the partnership debts; and (2) one or more limited partners who invest capital and share profits, but do not exercise any managerial control and do not incur any personal debts beyond their initial capital contribution.

41. In light of all the foregoing, we cannot find that limited partner BCI will exercise control over Jacobs or the station, and we hold that Radio-Vision is a *bona fide* limited partnership. As a result, Jacobs is entitled to receive full 100% credit for his proposed integration into ownership and management of the facility, enhanced by his minority status, long-term local residence, and activities in civic affairs. As the only applicant entitled to full 100% integration credit, Radio-Vision must be clearly preferred in this proceeding.

CONCLUSIONS

42. ACCBI has been disqualified. Hillside has been found to be entitled to no integration credit whatsoever. D & L and Wireless, at best, are entitled to no more than 51% and 30% integration credit, respectively. Thus, no competitor approaches the substantial comparative credits and enhancements awarded Radio-Vision, which must, as a result, prevail here.

43. ACCORDINGLY, IT IS ORDERED, That the applications of Atlantic City Community Broadcasting, Inc. (File No. BPH-870826ME); Hillside Broadcasting Limited Partnership (File No. BPH-870827MK); Atlantic Wireless Broadcasting Limited Partnership (File No. BPH-870827MO); and D & L Broadcasting (File No. BPH-870827NC) ARE DENIED, and the application of Radio-Vision Communications Limited Partnership II (File No. BPH-870826MF) for a new Class B1 FM facility at Atlantic City, New Jersey, IS GRANTED.

FEDERAL COMMUNICATIONS COMMISSION

Eric T. Esbensen
Member, Review Board

FOOTNOTES

[1] A total of 20 applications were designated for hearing in this proceeding. *See Hearing Designation Order*, 3 FCC Rcd 5595 (1988). Six applicants remained and were compared in the I.D. One applicant (Knight Radio, Inc.) did not file exceptions and was dismissed for failure to prosecute. *See Order*, 5 FCC Rcd 5370 (Rev. Bd. 1990)

[2] There is an unresolved dispute in the record as to whether Hayes was, in fact, one of the "John Does One Through Ten" identified as defendants in Frazier's suit. The ALJ found that Hayes was one of the defendants, I.D., para. 46, but ACCBI continues to deny that to be the case. We note that, although the Frazier complaint specified "ten" unnamed defendants, Hayes contended at hearing that the defendants were the "five" members of the WUSS Board of Directors. Because we affirm the ALJ's conclusion that Hayes lacked candor in completing ACCBI's application form, whether or not he was an actual defendant, is not of decisional significance. Nor will weight be given to the fact that no appeal was taken; the Frazier judgment is final and cognizable. *See generally Character Policy Statement.* And, as the court has affirmed, a conspicuous lack of candor can be disqualifying. *RKO General, Inc. v. FCC*, 670 F.2d 215 (D.C. Cir. 1981)

[3] Inasmuch as we do not disturb the ALJ's disqualification of ACCBI on candor grounds, we need not decide whether the adverse jury finding against Hayes, standing alone, would be held against ACCBI. In a prior case where a lower court found sexual discrimination and no appeal was taken, the Board declined to absolutely disqualify the applicant,*Washington's Christian Television Outreach, Inc.*, 99 FCC 2d 395, 423 (Rev. Bd. 1984) (taking cognizance of similar judicially determined offense not necessarily dispositive of Commission licensing); and we note that the Commission no longer assesses comparative demerits where conduct is not wholly disqualifying. *Professional Radio, Inc.*, 103 FCC 2d 429 (Rev. Bd. 1986). We further note that the Commission, in *WPIX, Inc.*, 5 FCC Rcd 7469 (1990), recently renewed the license of WPIX(TV), New York (without designating its renewal application for hearing), where the licensee demonstrated that adjudications against it (including age discrimination) "constitute[d] non-FCC misconduct and did not fall within the ambit of relevant, non-FCC misconduct contemplated by the Commission. None of the matters . . . are felonies, nor do those violations suggest any lack of truthfulness or candor in its dealing with [the Commission]." 5 FCC Rcd at 7471.

[4] Ms. Baeza is currently employed at Clearview Window Manufacturers, a company owned by her husband. Tr. 1028.

[5] Because we find that Hillside has not met its integration burden on other grounds, we have no occasion to revisit the question we specifically invited for the Commission in *Chester Associates*, 2 FCC Rcd 2029 (Rev. Bd. 1987), as to whether, without some unusual and compelling showing, we should recognize for comparative integration purposes a limited partnership between husband and wife. We there opined:

> That is to say that the entire proposition of whether to recognize, at least for comparative "integration" purposes, a "limited" partnership agreement as between spousal co-owners of a joint applicant entity which results - as here - in the mechanical extrapolation of one spouse's individual 65% ownership interest into an *effective* 100% "integration" factor may seem to strain, beyond sound and reasonable limits, mere legal form over actual function. Indeed, as the Board itself has candidly noted, *Absolutely Great Radio, Inc.*, 92 FCC 2d 1171, 1174-1175 (Rev. Bd. 1983) (subsequent history omitted), the essential notion of contractually-established spousal "passivity" in the prospective operation of a jointly-owned husband/wife media interest is debatable at best. *See also Alexander S. Klein, Jr., supra*, note 10, 86 FCC 2d at 426 ("We do not accept a disclaimer of active interest or participation in a commonly-owned [husband/wife] entity . . . ."). Thus, and beyond our affirmation of the *S. I. D.* for the totality of reasons explicated above, it is evident that this most vexatious case has moved us deeper into a legal thicket that would benefit materially from additional Commission policy guidance.

Id., at 2031 (corrected) (footnote omitted). *Chester* settled before the Commission could address the matter. Were husband/wife limited partnerships to be found non-cognizable, barring some special and convincing showing, we would not know how to apportion integration credit as between the Baeza partners, and might have to award none on that ground. *Cf. Progressive Communications, Inc., supra* (Comm'n declines to award integration credit to husband/wife partners where written partnership agreement did not reflect the *true* and *actual* relationship of the couple).

[6] We believe that substantial and material questions of fact remain as to the availability and suitability of D & L's proposed transmitter site (*see* Exceptions of Hillside Broadcasting at pp. 3-13); and if D & L were a viable applicant, this proceeding would otherwise be remanded for additional hearings on this matter.

[7] Because Wireless cannot prevail in this proceeding in any event, we similarly need not remand this proceeding to determine whether it has reasonable assurance of its proposed transmitter site. However, for the same reasons set forth with respect to D & L (*see* n. 6, *supra*), we believe that similar substantial and material questions of fact are raised with respect to Wireless and its proposed transmitter site.

Before the
Federal Communications Commission
Washington, D.C. 20554

PUBLIC NOTICE
Released: February 4, 1991

NOTICE OF COMMENT FILING DATES

On December 31, 1990, the National Exchange Carrier Association, Inc. (NECA) filed proposed revisions to the average schedules with a requested effective date of July 1, 1991. The revisions that NECA proposed are contained in the Appendix to this Notice.

Copies of NECA's average schedule filing and the record that will be developed in this proceeding may be obtained from the Commission's public records duplication contractor, The Downtown Copy Center, Suite 140, 1114 21st Street, N.W., Washington, D.C. 20037, (202) 452-1422. The record in this proceeding is also available for public inspection and duplication at Room 544, 1919 M Street, N.W., Washington, D.C. Commenting parties should file five (5) copies of their comments and reply comments at Room 544, 1919 M Street, N.W., Washington, D.C., 20554, and two (2) copies with The Downtown Copy Center. For consideration in this proceeding, all comments and reply comments in this proceeding should be captioned "In the Matter of National Exchange Carrier Association, December 31, 1990 Proposed Revisions to the Average Schedule Formula."

Comments on NECA's proposed revisions to the average schedules may be filed on or before March 1, 1991. Reply comments may be filed on or before March 14, 1991.

For further information, contact Kent R. Nilsson, Room 544, 1919 M Street, N.W., Washington, D.C. 20554, (202) 632-6363.

FEDERAL COMMUNICATIONS COMMISSION

APPENDIX
NECA'S PROPOSED MODIFICATIONS TO THE AVERAGE SCHEDULE FORMULAE

NECA proposes that the following average schedule formulae become effective July 1, 1991.

Common Line:

Where access lines per exchange are less than 385.554541, the settlement per access line would be: $11.042471 - ($.011652 x Access Lines Per Exchange). Where access lines per exchange are greater than or equal to 385.554541, the settlement per access line would be $6.550155.

Common Line Rate of Return Formula:

The common line factor would be .593717 + (3.611402)(ROR).

Traffic Sensitive Central Office:

For less than 10,000 access lines, the settlement per minute would be: [1.31393 - .000031393(access lines)] $.028639 + ($181.406911/minutes per exchange). For 10,000 or more access lines, the settlement per minute would be: $.028639 + $181.406911/minutes per exchange.

Intertoll Switching:

The settlement per trunk would be $25.70.

Line Haul Distance Sensitive:

The settlement would be [($1.019329)(interstate circuit miles) + ($.0011290)(traffic sensitive switched minutes)].

Line Haul Non-Distance Sensitive:

The settlement per interstate circuit termination wouldbe $38.69.

Special Access:

The settlement for special access would be .860701 times special access revenue.

Traffic Sensitive Rate of Return:

The traffic sensitive factor would be equal to .568566 + (3.834967)(ROR).

CABS and Access Administration:

The CABS and access administration settlement would be $649.92 + ($.000452)(minutes).

Signaling System 7:

Signaling System 7 compensation would be: $360 per month for each central office with signal point equipment in service; $1415 for each central office with signal switching point in service; $1775 for each central office with both signal point and service switching point in service; $780 for each pair of an "A" link.

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 91-24

In the Matter of

Amendment of Section 73.202(b), RM-7598
Table of Allotments,
FM Broadcast Stations.
(Canton, South Dakota)

NOTICE OF PROPOSED RULE MAKING

Adopted: February 1, 1991; Released: February 15, 1991

By the Acting Chief, Allocations Branch:

1. The Commission has before it the petition for rule making filed by Dallas M. Tarkenton ("petitioner") requesting the substitution of Channel 274C2 for Channel 274A at Canton, South Dakota, and the modification of his construction permit for Station KIXS to specify operation on the higher powered channel.[1] Petitioner states that he will apply for the channel, if allotted.

2. We believe the public interest would be served by proposing the substitution of Channel 274C2 for Channel 274A at Canton, South Dakota, since it could provide the community with a wide coverage area FM service. Channel 274C2 can be allotted to Canton in compliance with the Commission's minimum distance separation requirements with a site restriction of 20.5 kilometers (12.7 miles) north to accommodate petitioner's desired transmitter site.[2] As requested, we also propose to modify petitioner's construction permit for Station KIXS to specify operation on Channel 274C2. In accordance with Section 1.420(g) of the Commission's Rules, we will not accept competing expressions of interest in use of the channel at Canton or require the petitioner to demonstrate the availability of an additional equivalent class channel for use by such parties.

3. Accordingly, we seek comments on the proposed amendment of the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, for the community listed below, to read as follows:

	Channel No.	
City	Present	Proposed
Canton, South Dakota	274A	274C2

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

5. Interested parties may file comments on or before **April 8, 1991,** and reply comments on or before **April 23, 1991,** and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioner, or its counsel or consultant, as follows:

Dallas M. Tarkenton
100 Wexford Place
Athens, Georgia 30606
(Petitioner)

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. *See Certification That Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202 (b), 73.504 and 73.606 (b) of the Commission's Rules*, 46 FR 11549, February 9, 1981.

7. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530. For purposes of this restricted notice and comment rule making proceeding, members of the public are advised that no *ex parte* presentations are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the proceeding has been decided and such decision is no longer subject to reconsideration by the Commission or review by any court. An *ex parte* presentation is not prohibited if specifically requested by the Commission or staff for the clarification or adduction of evidence or resolution of issues in the proceeding. However, any new written information elicited from such a request or a summary of any new oral information shall be served by the person making the presentation upon the other parties to the proceeding unless the Commission specifically waives this service requirement. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

FEDERAL COMMUNICATIONS COMMISSION

Andrew J. Rhodes
Acting Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Allotments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut - off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. *(See* Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. *(See* Section 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street N.W., Washington, D.C.

FOOTNOTES

[1] By *Report and Order*, adopted January 22, 1991, the Commission modified Station KIXS' construction permit to specify operation on Channel 274A in lieu of Channel 273A at Canton. *See* MM Docket No. 89-596.

[2] The coordinates for Channel 274C2 at Canton are North Latitude 43-29-00 and West Longitude 96-38-00.

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 91-25

In the Matter of

Amendment of Section 73.202(b), RM-7219
Table of Allotments,
FM Broadcast Stations.
(Headland, Alabama and
Chattahooche, Florida)

NOTICE OF PROPOSED RULE MAKING

Adopted: February 1, 1991; Released: February 15, 1991

By the Acting Chief, Allocations Branch:

1. The Commission has before it the petition for rule making filed by Chattahoochee Broadcast Associates ("petitioner"), permittee of Station WUMG(FM), Channel 287A, Chattahoochee, Florida. Petitioner requests the reallotment of its channel to Headland, Alabama, as a Class C3 channel and modification of its construction permit accordingly. Petitioner states that it will apply for the channel, if allotted.

2. Petitioner claims that its request complies with Section 1.420(i) of the Commission's Rules, which permits the modification of a station's construction permit to specify a higher class channel and/or a new community of license without affording other interested parties an opportunity to file competing expressions of interest. *See Modification of FM and TV Authorizations to Specify a New Community of License*, 4 FCC Rcd 4870 (1989), *recon. granted in part*, 5 FCC Rcd 7094 (1990). Petitioner submits that the allotment of Channel 287C3 would provide Headland, a community of 3,327 persons,[1] with its first local aural transmission service, whereas Chattahoochee, a community of 5,332 persons, would retain Station WTCL(AM) as an existing local service.

3. We believe the public interest would be served by the proposed reallotment of Channel 287A from Chattahoochee, Florida, to Headland, Alabama, as a Class C3 channel, since it could provide Headland with its first local aural transmission service, and permit Station WUMG(FM) to expand its service area. Channel 287C3 can be allotted to Headland, Alabama, in compliance with the Commission's minimum distance separation requirements with a site restriction of 9.8 kilometers (6.1 miles) southeast[2] of the community in order to avoid a short-spacing to Station WOAB, Channel 285A, Ozark, Alabama. As requested, we also propose to modify petitioner's construction permit for Station WUMG(FM) to specify the higher powered channel at the new community. In accordance with Section 1.420(i) of the Commission's Rules, we will not accept competing expressions of interest for use of the channel at Headland or require the petitioner to demonstrate the availability of an additional equivalent class channel for use by such parties.

4. Accordingly, the Commission believes it would be in the public interest to seek comments on the proposal to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, with respect to the following communities:

	Channel No.	
City	Present	Proposed
Headland, Alabama	---	287C3
Chattahoochee, Florida	287A	---

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

6. Interested parties may file comments on or before **April 8, 1991,** and reply comments on or before **April 23, 1991,** and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioner, or its counsel or consultant, as follows:

Linda J. Eckard
Mullin, Rhyne, Emmons and Topel, P.C.
1000 Connecticut Avenue, N.W., Suite 500
Washington, D.C. 20036
(Counsel for Chattahoochee
Broadcast Associates)

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. *See Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202 (b), 73.504 and 73.606 (b) of the Commission's Rules*, 46 FR 11549, February 9, 1981.

8. For further information concerning this proceeding, contact Nancy J. Walls, Mass Media Bureau, (202) 634-6530. For purposes of this restricted notice and comment rule making proceeding, members of the public are advised that no *ex parte* presentations are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the proceeding has been decided and such decision is no longer subject to reconsideration by the Commission or review by any court. An *ex parte* presentation is not prohibited if specifically requested by the Commission or staff for the clarification or adduction of evidence or resolution of issues in the proceeding. However, any new written information elicited from such a request or a summary of any new oral information shall be served by the person making the presentation upon the other parties to the proceeding unless the Commission specifically waives this service requirement. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

FEDERAL COMMUNICATIONS COMMISSION

Andrew J. Rhodes
Acting Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Allotments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut - off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. *(See* Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. *(See* Section 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street N.W., Washington, D.C.

FOOTNOTES

[1] Population figures are from the 1980 United States Census.

[2] The coordinates for Channel 287C3 at Headland are North Latitude 31-16-19 and West Longitude 85-17-46.

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 90-325

In the Matter of

Amendment of Section 73.202(b),	RM-7212
Table of Allotments,	RM-7347
FM Broadcast Stations.	
(Americus, Fort Valley and	
Smithville, Georgia)	

REPORT AND ORDER
(Proceeding Terminated)

Adopted: February 1, 1991; Released: February 15, 1991

By the Acting Chief, Allocations Branch:

1. The Commission has before it for consideration the *Notice of Proposed Rule Making*, 5 FCC Rcd 4011 (1990), issued in response to two separate petitions for rule making. S&M Broadcasters, Inc. ("S&M") requested the substitution of Channel 250C3 for Channel 250A at Fort Valley, Georgia, and the modification of its construction permit for Station WKXK(FM) to specify operation on the higher class channel. In order to accomplish the upgrade at Fort Valley, S&M also requests the substitution of Channel 254A for Channel 249A at Americus, Georgia, currently licensed to Station WPUR(FM), and the modification of that station's license to specify operation on the new Class A channel. Smithville Radio Company ("SRC") proposed the allotment of Channel 254C3 to Smithville, Georgia, as that community's first local broadcast service. S&M, SRC, and Larry G. Fuss filed supporting comments.[1] S&M filed reply comments stating that it will reimburse Sumter Broadcasting Co. Inc., the licensee of Station WPUR(FM), Americus, Georgia, for all reasonable expenses incurred in changing its frequency to Channel 254A.

2. S&M in its comments contends that the substitution of Channel 250C3 for Channel 250A at Fort Valley would best serve the public interest, because the facility proposed for Smithville will be licensed to a town of 867 residents.[2] S&M argues that the most practical solution would be for the Commission to allot a Class A channel to Smithville, and suggests the allotment of Channel 295A to the community. SRC in its comments agrees with S&M that the public interest would be best served by the allotment of a Class A channel rather than a Class C3 channel to Smithville, Georgia, and states its intention to apply for Channel 295A, if allotted to Smithville.

3. In consideration of the above, we believe the public interest would be served by substituting Channel 250C3 for Channel 250A at Fort Valley, Georgia, as well as the substitution of Channel 254A for Channel 249A at Americus, Georgia. In addition, Channel 295A will be allotted to Smithville, Georgia, as that community's first local broadcast service. Channel 250C3 can be allotted to Fort Valley in compliance with the Commission's minimum distance separation requirements with a site restriction of 13.9 kilometers (8.6 miles) east of the community. Channel 254A can be substituted for Channel 249A at Americus, Georgia, in compliance with the Commission's minimum distance separation requirements at Station WPUR(FM)'s present transmitter site. Channel 295A can be allotted to Smithville, Georgia, in compliance with the Commission's minimum distance separation requirements with a site restriction of 8.7 kilometers (5.4 miles) north of the community, in order to avoid a short-spacing to Station WCGQ, Channel 297C, Columbus, Georgia. [3]

4. Sumter Broadcasting Co. Inc., licensee of Station WPUR(FM), Americus, Georgia, filed no response to the *Order to Show Cause* as to why its license should not be modified to specify operation on Channel 254A in lieu of Channel 249A. Accordingly, pursuant to Section 1.87 of the Commission's Rules, Sumter is deemed to have consented to the proposed modification.

5. Commission policy requires reimbursement to affected stations for the reasonable costs associated with changing frequencies. *See Circleville and Columbus, Ohio*, 8 FCC 2d 159 (1967). S&M has stated its intention to reimburse Sumter for all reasonable expenses incurred in changing its frequency to Channel 254A.

6. Accordingly, pursuant to the authority found in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective **April 1, 1991,** the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED for the communities listed below, as follows:

City	Channel No.
Americus, Georgia	232A, 254A
Fort Valley, Georgia	250C3, 292C2
Smithville, Georgia	295A

7. The window period for filing applications for Channel 295A at Smithville, Georgia, will open on **April 2, 1991,** and close on **May 2, 1991.**

8. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the construction permit for Station WKXK(FM), Fort Valley, Georgia, IS MODIFIED to specify operation on Channel 250C3 in lieu of Channel 250A, subject to the following conditions:

(a) Within 90 days of the effective date of this *Order*, the permittee shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facility;

(b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620; and

(c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental impact statement pursuant to Section 1.1301 of the Commission's Rules.

9. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the license of Station WPUR(FM), Americus, Georgia, IS MODIFIED to specify operation on Channel 254A in lieu of Channel 249A, subject to the following conditions:

(a) Nothing contained herein shall be construed as authorizing any change in Station WPUR(FM)'s license, BLH-6120, except the channel as specified above. Any other changes, except for those so specified under Section 73.1690 of the Rules, require prior authorization pursuant to an application for construction permit (FCC Form 301).

(b) Program tests may be conducted in accordance with the provisions of Section 73.1620 of the Rules, PROVIDED the transmission facilities comply in all respects with Station WPUR(FM)'s license, BLH-6120, except for the channel as specified above and a license application (FCC Form 302) is filed within 10 days of commencement of program tests.

10. IT IS FURTHER ORDERED, That the Secretary SHALL SEND, BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, a copy of this *Report and Order* to the licensee of Station WPUR(FM), Americus, Georgia, as follows: Sumter Broadcasting Co. Inc., P.O. Box 727, Americus, Georgia 31709.

11. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

12. For further information concerning this proceeding, contact Nancy J. Walls, Mass Media Bureau, (202) 634-6530.

FEDERAL COMMUNICATIONS COMMISSION

Andrew J. Rhodes
Acting Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

FOOTNOTES

[1] Fuss withdrew his comments on September 10, 1990. Therefore, his comments and any other comments in response will not be considered.

[2] Population figures taken from the 1980 U.S. Census.

[3] The coordinates for Channel 250C3 at Fort Valley are North Latitude 32-33-20 and West Longitude 83-44-14. The coordinates for Channel 254A at Americus are North Latitude 32-04-51 and West Longitude 84-15-20. The coordinates for Channel 295A at Smithville are North Latitude 31-58-36 and West Longitude 84-14-04.

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 90-553

In the Matter of

Amendment of Section 73.202(b), RM-7431
Table of Allotments,
FM Broadcast Stations.
(Lynchburg, Virginia)

REPORT AND ORDER
(Proceeding Terminated)

Adopted: January 31, 1991; Released: February 15, 1991

By the Acting Chief, Allocations Branch:

1. At the request of Douglas Broadcasting, Inc. ("petitioner"), licensee of Station WGOL(FM), Channel 252A, Lynchburg, Virginia, the Commission has before it the *Notice of Proposed Rule Making*, 5 FCC Rcd 6962 (1990), proposing the substitution of Channel 250C3 for Channel 252A at Lynchburg and modification of its license to specify operation on the higher powered channel. Petitioner filed comments stating its intention to apply for the channel and to modify Station WGOL(FM) to Class C3 facilities. No other comments were received.

2. We believe the public interest would be served by substituting Channel 250C3 for Channel 252A at Lynchburg, since it would provide the community with an expanded coverage area FM service. Channel 250C3 can be allotted to Lynchburg, Virginia, in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction.[1] As proposed, we will also modify the license of Station WGOL(FM) to specify operation on Channel 250C3 in accordance with the provisions of Section 1.420(g) of the Commission's Rules.

3. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective **April 1, 1991,** the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the community listed below, to read as follows:

City	Channel No.
Lynchburg, Virginia	250C3, 261C3, 269C3, 290A

4. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the license of Douglas Broadcasting, Inc. for Station WGOL(FM), Lynchburg, Virginia, IS MODIFIED to specify operation on Channel 250C3, in lieu of Channel 252A, subject to the following conditions:

(a) Within 90 days of the effective date of this *Order*, the licensee shall submit to the Commission a minor change application for a construction permit (Form 301).

(b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620.

(c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental impact statement pursuant to Section 1.1301 of the Commission's Rules.

5. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

6. For further information concerning this proceeding, contact Pamela Blumenthal, Mass Media Bureau, (202) 632-6302.

FEDERAL COMMUNICATIONS COMMISSION

Andrew J. Rhodes
Acting Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

FOOTNOTE

[1] The coordinates for Channel 250C3 at Lynchburg are North Latitude 37-24-54 and West Longitude 79-08-36.

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 90-483

In the Matter of

Amendment of Section 73.202(b), RM-7456
Table of Allotments,
FM Broadcast Stations.
(Searsport, Maine)

REPORT AND ORDER
(Proceeding Terminated)

Adopted: February 1, 1991; Released: February 15, 1991

By the Acting Chief, Allocations Branch:

1. The Commission has before it for consideration the *Notice of Proposed Rule Making*, 5 FCC Rcd 6540 (1990), issued in response to a petition filed by Brian Dodge ("petitioner"), proposing the allotment of Channel 269A to Searsport, Maine, as that community's first local service. Petitioner and Peter Dalton filed comments expressing an interest in applying for Channel 269A at Searsport.[1] No other comments were received.

2. We believe the public interest would be served by the allotment of Channel 269A to Searsport, since it would provide a first local transmission service to the community. Channel 269A can be allotted to Searsport, Maine, in compliance with the Commission's spacing requirements without a site restriction.[2] Since Searsport is located within 320 kilometers (200 miles) of the U.S. - Canadian border, concurrence of the Canadian government has been obtained for this allotment. The applications for Channel 269A at Searsport must conform with the technical requirements of Section 73.1030(c)(1)-(5) of the Rules regarding protection to the Commission's monitoring station at Belfast, Maine.

3. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective **April 1, 1991,** the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED for the community listed below, to read as follows:

Community	Channel No.
Searsport, Maine	269A

4. The window period for filing applications for Channel 269A at Searsport will open on **April 2, 1991,** and close on **May 2, 1991.**

5. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

6. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

FEDERAL COMMUNICATIONS COMMISSION

Andrew J. Rhodes
Acting Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

FOOTNOTES

[1] Petitioner's comments reaffirming his interest in Channel 269A at Searsport were late filed. In accordance with our policy of accepting late filed expressions of interest in uncontested proceedings, we will accept petitioner's comments.

[2] The coordinates for Channel 269A are 44-27-30 and 68-55-30.

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 90-539

In the Matter of

Amendment of Section 73.202(b), RM-7181
Table of Allotments,
FM Broadcast Stations.
(Howland, Maine)

REPORT AND ORDER
(Proceeding Terminated)

Adopted: February 1, 1991; Released: February 15, 1991

By the Acting Chief, Allocations Branch:

1. The Commission has before it for consideration the *Notice of Proposed Rule Making*, 5 FCC Rcd 6757 (1990), proposing the substitution of FM Channel 280C for Channel 280A at Howland, Maine, in response to a petition filed by Bay Communications, Inc. ("petitioner"). Petitioner also requested modification of its construction permit for Station WPVM, Channel 280A, to specify operation on Channel 280C. Petitioner filed comments reaffirming its interest in Channel 280C.[1] No other comments were received.

2. We believe the public interest would be served by substituting Channel 280C for Channel 280A at Howland, Maine, in order to provide that community with a wide area FM broadcast service. As indicated in the *Notice*, Channel 280C can be allotted to Howland consistent with the Commission's spacing requirements at petitioner's specified site 26.8 kilometers (16.6 miles) southeast of the community.[2] Since Howland, Maine, is located within 320 kilometers (200 miles) of the U.S. - Canadian border, Canadian concurrence has been obtained for this allotment as a specially negotiated short spaced allotment. In accordance with Section 1.420(g) of the Commission's Rules, we will modify the construction permit for Station WPVM, Channel 280A, Howland, Maine, to specify operation on Channel 280C.

3. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective **April 1, 1991,** the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED for the community listed below, to read as follows:

Community	Channel No.
Howland, Maine	280C

4. IT IS FURTHER ORDERED, pursuant to the authority contained in Section 316 of the Communications Act of 1934, as amended, that the construction permit for Station WPVM, Channel 280A, Howland, Maine, IS MODIFIED to specify operation on Channel 280C, subject to the following conditions:

(a) Within 90 days of the effective date of this *Order*, the permittee shall file with the Commission a minor change application for construction permit (Form 301), specifying the new facility.

(b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620.

(c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental impact statement pursuant to Section 1.1301 of the Commission's Rules.

5. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

6. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

FEDERAL COMMUNICATIONS COMMISSION

Andrew J. Rhodes
Acting Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

FOOTNOTES

[1] Petitioner filed comments on January 8, 1991, one day after the filing deadline for comments. Petitioner states that it was unable to file comments on January 7, 1991, because the Commission closed early on that date due to inclement weather. Therefore, we will accept petitioner's comments as timely filed.

[2] Coordinates for Channel 280C at Howland are 45-07-46 and 68-21-28.

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 91-21

In re Applications of

JOYCE H. HENDERSON (hereafter "Henderson") — File No. BPH-891025MG

HOUSTON L. PEARCE (hereafter "Pearce") — File No. BPH-891025MH

APPALACHIAN BROADCASTING COMPANY (hereafter "Appalachian") — File No. BPH-891025MI

GLENCOE BROADCASTING, INC. (hereafter "GBI") — File No. BPH-891026MB

JAMES EUGENE HODGES (hereafter "Hodges") — File No. BPH-891026MM

BUSSEY-HAYES COMMUNICATIONS OF GLENCOE, ALABAMA (hereafter "B-H") — File No. BPH-891026MN

ALLEN & HILL BROADCASTING CO., INC. (hereafter "Allen & Hill") — File No. BPH-891026MS

For Construction Permit
for a New FM Station on Channel 226A
in Glencoe, Alabama

HEARING DESIGNATION ORDER

Adopted: January 29, 1991; Released: February 19, 1991

By the Chief, Audio Services Division:

1. The Commission has before it the above-captioned mutually exclusive applications for a new FM station.

2. Data submitted by the applicants indicate there would be significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue for the purpose of determining whether a comparative preference should accrue to any of the applicants.

3. The applicants below have petitioned for leave to amend their applications after February 2, 1990, the last date for filing amendments as of right. Pursuant to Section 1.65 of the Commission's Rules, the amendments are accepted for filing. However, the applicants may not improve their comparative positions after the time for filing amendments as of right has passed. Therefore, any comparative advantage resulting from these amendments will be disallowed.

APPLICANTS	AMENDMENTS FILED
Pearce	July 16, 1990
	August 17, 1990
	September 28, 1990
GBI	April 2, 1990

4. *Return of Late-filed Amendment.* Pearce filed an amendment on February 9, 1990 proposing to change its transmitter site. However, in that the public notice for tenderability was January 2, 1990 and the last date to file amendments as of right was February 2, 1990, the instant amendment is found to be late-filed. Pearce failed to submit any good cause for the lateness of its filing. Therefore, the amendment shall be returned. *See* 47 C.F.R. § 73.3522(a)(6); and *Leonard James Giancone, Hearing Designation Order* in MM Docket 88-116, 3 FCC Rcd 2025, 2026 (1988).

5. *Allen & Hill.* Betty C. Fant, one of the principals of the applicant, has three children who have attributable interests in WNAL-TV, Gadsden, Alabama; her husband, Billy J. Fant, is a director of WNAL-TV, Inc., licensee of WNAL-TV. Gadsden is located within the applicant's 1 mV/m contour. Under the "spousal attribution" doctrine, Billy Fant's interest in WNAL-TV is attributable to Betty Fant. *See Lady Sarah Jane McKinney-Smith*, 59 FCC 2d 389 (1976). However, Allen & Hill has indicated that in the event its construction permit application is granted, it will divest itself of all interest in the station noted above. Accordingly, in the event of grant of Allen & Hill's application, the applicant will be required to sever all connections with and divest itself of all interest in WNAL-TV prior to the commencement of program test authority.

6. Except as may be indicated by any issues specified below, the applicants are qualified to construct and operate as proposed. Since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

7. Accordingly, IT IS ORDERED, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications ARE DESIGNATED FOR HEARING IN A CONSOLIDATED PROCEEDING, at a time and place to be specified in a subsequent Order upon the following issues:

1. To determine which of the proposals would, on a comparative basis, best serve the public interest.

2. To determine, in the light of the evidence adduced pursuant to the specified issues, which of the applications should be granted, if any.

8. IT IS FURTHER ORDERED, That the petitions for leave to amend filed by Pearce and GBI ARE GRANTED, and the corresponding amendments ARE ACCEPTED to the extent indicated herein.

9. IS IS FURTHER ORDERED, That Pearce's February 9, 1990 amendment IS RETURNED.

10. IT IS FURTHER ORDERED, That in the event of the grant of Allen & Hill's application, Allen & Hill will be required to sever any connection with and divest itself of all interests in station WNAL-TV, Gadsden, Alabama, prior to the commencement of program test authority.

11. IT IS FURTHER ORDERED, That a copy of each document filed in this proceeding subsequent to the date of adoption of this Order shall be served on the counsel of record in the Hearing Branch appearing on behalf of the Chief, Mass Media Bureau. Parties may inquire as to the identity of the counsel of record by calling the Hearing Branch at (202) 632-6402. Such service shall be addressed to the named counsel of record, Hearing Branch, Enforcement Division, Mass Media Bureau, Federal Communications Commission, 2025 M Street, N.W., Suite 7212, Washington, D.C. 20554. Additionally, a copy of each amendment filed in this proceeding subsequent to the date of adoption of this Order shall also be served on the Chief, Data Management Staff, Audio Services Division, Mass Media Bureau, Federal Communications Commission, Room 350, 1919 M Street, N.W., Washington, D.C. 20554.

12. IT IS FURTHER ORDERED, That, to avail themselves of the opportunity to be heard, the applicants and any party respondent herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for hearing and to present evidence on the issues specified in this Order.

13. IT IS FURTHER ORDERED, That the applicants herein shall pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

FEDERAL COMMUNICATIONS COMMISSION

W. Jan Gay, Assistant Chief
Audio Services Division
Mass Media Bureau

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 91-23

In re Applications of

STUDENT MEDIA CENTER OF THE UNIVERSITY OF MISSISSIPPI (hereafter "SMC") File No. BPH-851017MB

DAVID T. MURRAY (hereafter "Murray") File No. BPH-851018MZ

For Construction Permit
for a New FM Station on Channel 221A
in University, Mississippi

HEARING DESIGNATION ORDER

Adopted: January 29, 1991; Released: February 19, 1991

By the Chief, Audio Services Division:

1. The Commission has before it the above-captioned mutually exclusive applications for a new FM station.

2. *Background*. On October 18, 1985, Murray filed his application for the University, Mississippi allocation. Competing applications were filed by Oxford Radio Company and SMC. On October 31, 1985, Murray's application was returned as insufficient for tender by the Chief, FM Branch. On November 27, 1985 Murray filed a petition for reconsideration of the Commission's action in returning his application. By letter of the Chief, Audio Services Division, dated April 12, 1988, the Commission, acting pursuant to delegated authority, denied Murray's petition for reconsideration. On the same date, April 12, 1988, the Chief FM Branch approved a settlement agreement between Oxford Radio Company and SMC, whereby SMC's application for construction permit was granted. On May 13, 1988 Murray filed an Application for Review of the Commission's April 12, 1988 denial of his petition for reconsideration. By *Memorandum Opinion and Order*, 5 FCC Rcd 5770 (1990), the Commission granted Murray's application for review and reinstated his application. In addition, the Commission rescinded SMC's construction permit and returned its application to pending status. The Commission further granted SMC an STA for ninety days pending the submission of a joint interim operating agreement between Murray and SMC.

3. One final matter remains regarding the STA request. Footnote 3 of the Commission's *Memorandum Opinion and Order* stated that:

> [WUMS] has been operational for over a year. Rather than terminating operation during any hearing, we believe that the public interest will be better served by permitting joint interim operation during the pendency of any ensuing hearing should Murray be found, upon further processing, qualified to construct and operate as proposed. *See* 47 C.F.R. § 73.3592(b). In order to permit an orderly transition to such joint interim operation, we hereby grant SMC, on our own motion, a Special Temporary Authorization ("STA") for ninety (90) days pending submission of a joint interim operating agreement between itself and Murray.

Id. at 5772.

4. On January 7, 1991, SMC requested a continuance of the STA granted in the *Memorandum Opinion and Order* and, in addition, submitted a draft joint interim operating agreement. On January 14, 1991, Murray filed an objection to SMC's extension request alleging that SMC had made no effort to negotiate an interim operating agreement and would not cooperate with counsel for Murrary in its attempt to negotiate an agreement. Further, on January 25, 1991, SMC filed a response to Murray's January 14, 1991 objection that disputed Murray's objections.

5. Although we note that both parties have accused each other of "bad faith" to date in negotiating a joint interim operating agreement, we have examined the submitted draft operating agreement and it appears to be a reasonable proposal. Accordingly, SMC's STA will be extended for an additional 30 days and the parties will be ordered to submit a signed joint interim operating agreement with the presiding Administrative Law Judge within 30 days after the release of this Order.

6. *Murray*. On January 4, 1991, SMC filed a petition to deny Murray's application. SMC's petition to deny is essentially a petition to specify issues. Since the Commission's *Report and Order* in re *Revised Procedures for the Processing of Contested Broadcasting Applications; Amendments of Part 1 of the Commission's Rules*, 72 FCC 2d 202, 45 RR 2d 1220 (1979), directed the deletion of all issues pleadings in pending cases, the matters sought to be raised in this petition have not been considered. Accordingly, an opportunity to raise any allegations contained therein will be afforded the parties post-designation pursuant to Section 1.229.

7. Section II, Item 4 of FCC Form 301 (October 1986) requires that an applicant specify its address (number, street, city, state) as well as the home address of each of its principals. Murray has not completed Item 4 correctly. Murray's application gives a post office box number as his residence address. Accordingly, Murray must submit an amendment which gives all the information required by Section II, Item 4 to the presiding Administrative Law Judge after this Order is released.

8. Since no determination has been received from the Federal Aviation Administration as to whether the antenna proposed by Murray would constitute a hazard to air navigation, an issue with respect thereto will be included and the F.A.A. made a party to the proceeding.

9. Data submitted by the applicants indicate there would be significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, the areas and populations which would receive FM service of 1 mV/m or greater intensity, to-

gether with the availability of other primary aural services in such areas, will be considered under the standard comparative issue for the purpose of determining whether a comparative preference should accrue to any of the applicants.

10. Except as may be indicated by any issues specified below, the applicants are qualified to construct and operate as proposed. Since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

11. Accordingly, IT IS ORDERED, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications ARE DESIGNATED FOR HEARING IN A CONSOLIDATED PROCEEDING, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether there is a reasonable possibility that the tower height and location proposed by Murray would constitute a hazard to air navigation.

2. To determine which of the proposals would, on a comparative basis, better serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the specified issues, which of the applications should be granted, if either.

12. IT IS FURTHER ORDERED, THAT SMC and Murray shall submit a signed joint interim operating agreement to the presiding Administrative Law Judge within 30 days after the release of this Order.

13. IT IS FURTHER ORDERED, That the SMC petition to deny IS DISMISSED.

14. IT IS FURTHER ORDERED, That Murray shall submit an amendment which contains the information required by Section II, Item 4 of FCC Form 301, to the presiding Administrative Law Judge within 30 days after the release of this Order.

15. IT IS FURTHER ORDERED, That a copy of each document filed in this proceeding subsequent to the date of adoption of this Order shall be served on the counsel of record in the Hearing Branch appearing on behalf of the Chief, Mass Media Bureau. Parties may inquire as to the identity of the counsel of record by calling the Hearing Branch at (202) 632-6402. Such service shall be addressed to the named counsel of record, Hearing Branch, Enforcement Division, Mass Media Bureau, Federal Communications Commission, 2025 M Street, N.W., Suite 7212, Washington, D.C. 20554. Additionally, a copy of each amendment filed in this proceeding subsequent to the date of adoption of this Order shall also be served on the Chief, Data Management Staff, Audio Services Division, Mass Media Bureau, Federal Communications Commission, Room 350, 1919 M Street, N.W., Washington, D.C. 20554.

16. IT IS FURTHER ORDERED, That, to avail themselves of the opportunity to be heard, the applicants and any party respondent herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for hearing and to present evidence on the issues specified in this Order.

17. IT IS FURTHER ORDERED, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

FEDERAL COMMUNICATIONS COMMISSION

W. Jan Gay, Assistant Chief
Audio Services Division
Mass Media Bureau

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

Continental Cablevision of
Jacksonville, Inc.
Complainant,

v. File No. PA 90-001

Northeast Florida
Telephone Company, Inc.
Respondent.

ORDER

Adopted: February 7, 1991; Released: February 15, 1991

By the Chief, Accounting and Audits Division:

1. On September 7, 1990, Continental Cablevision of Jacksonville, Inc. filed the above-captioned complaint pursuant to Section 224 of the Communications Act, 47 U.S.C. § 224, seeking to determine that the Northeast Florida Telephone Company, Inc. had imposed unjust and unreasonable rates for cable television pole attachments.

2. On November 30, 1990, counsel for both parties advised that there are no longer issues in controversy and requested dismissal of the pending complaint.

3. Accordingly, IT IS ORDERED, pursuant to authority delegated by Section 0.291 of the Commission's Rules, 47 C.F.R. § 0.291, that the complaint filed by Continental Cablevision of Jacksonville, Inc. IS DISMISSED and this proceeding IS TERMINATED.

FEDERAL COMMUNICATIONS COMMISSION

Before the
Federal Communications Commission
Washington, D.C. 20554

LETTER
February 5, 1991

Released: February 15, 1991

John B. Kenkel, Esquire
Kenkel and Associates
1220 Nineteenth Street, N.W.
Suite 202
Washington, DC 20036

In re: KFRM(AM), Salina, Kansas
File No. BAL-900227EA

Dear Mr. Kenkel:

This is in reference to the above-captioned application for assignment of license of station KFRM(AM), Salina, Kansas from HRH Broadcasting Corp. to Great American Broadcasting of Kansas, Inc. ("GAB"). GAB, the proposed assignee, is also the licensee of KWHK(AM), Hutchinson, Kansas, and grant of the instant application would result in a violation of 47 C.F.R. Section 73.3555(a)(1) due to the overlap of the 5 mV/m service contours of both these stations.[1] Accordingly, you have requested a twelve-month waiver of Section 73.3555(a)(1) in order to allow time for GAB to divest KWHK in an orderly manner.

In support of the waiver request, GAB asserts that the overlap area is well served by other broadcast media; that the respective communities of license, Salina and Hutchinson, Kansas, constitute separate and distinct radio markets; that it has taken steps to divest KWHK by listing it with a station broker; that, during the pendency of the sale, the two stations will be operated on an independent, arm's-length basis; and that grant of the temporary waiver would serve the public interest by preserving the continuity of AM service in Salina.

The ultimate objectives of the Commission's multiple ownership rules are to promote economic competition and diversity of programming and viewpoints in order to further the public interest. *See Amendment of Section 73.3555 of the Commission's Rules*, 4 FCC Rcd 1723 (1989), *recon. granted in part and denied in part*, 4 FCC Rcd 6489 (1989); *Multiple Ownership Rules*, 97 FCC Rcd 997 (1984), *recon. granted in part and denied in part*, 1 FCC Rcd 802 (1986). The Commission is not, however, without flexibility to respond to situations where application of fixed multiple ownership standards would be contrary to other public interest concerns. Before such a waiver can be granted, even on a temporary basis, an applicant must sustain the burden of showing that the benefits to be achieved by its proposal are in the public interest and that a waiver would not compromise the fundamental policies served by the rule.

On the basis of the representations before us and the circumstances of this case, we find that a temporary waiver of the overlap prohibitions contained in our multiple ownership rules would be consistent with the public interest and precedent. The Salina and Hutchinson markets are separate and the overlap area is well served by other media services, including two newspapers, three AM stations, four FM stations, seven TV stations and two cable systems, and the waiver sought is for a limited period. Furthermore, we note that GAB has already taken steps to divest the station by listing KWHK with a station broker and that, during the pendency of its sale, the two stations will be operated on an independent, arm's-length basis. In similar circumstances, the Commission has granted temporary waivers of the contour overlap provisions of the multiple onwership rules. *See KRTH(AM)*, 5 FCC Rcd 2059 (1990); *KKWM(AM)*, 5 FCC Rcd 7735 (1990). We are therefore persuaded that no undue concentration of media would result by grant of the temporary relief requested.

Accordingly, the contour overlap provisions of 47 C.F.R. Section 73.3555(a)(1) ARE HEREBY WAIVED in accordance with GAB's request. Moreover, finding that the applicants are fully qualified and the public interest would be served thereby, the application (File No. BAL-900227EA) for assignment of license of KFRM(AM), Salina, Kansas, from HRH Broadcasting Corp. to Great American Broadcasting of Kansas, Inc. IS HEREBY GRANTED.

BY DIRECTION OF THE COMMISSION

Donna R. Searcy
Secretary

FOOTNOTE

[1] Section 73.3555 states in pertinent part:

(a) No license for an AM . . . broadcast station shall be granted to any party (including all parties under common control) if such party directly or indirectly owns, operates or controls one or more broadcast stations in the same service and the grant of such license will result in:

(1) Any overlap of the predicted or measured 5 mV/m groundwave contours of the existing and proposed AM stations.

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 88-442

In re Applications of

MARICOPA COUNTY COMMUNITY COLLEGE DISTRICT — File No. BPED-860624MC

ARIZONA BOARD OF REGENTS FOR ARIZONA STATE UNIVERSITY — File No. BPED-870626MC

For Construction Permit for
New Noncommercial Educational FM
Broadcast Station, Channel 208A,
Phoenix, Arizona

MEMORANDUM OPINION AND ORDER

Adopted: February 8, 1991; Released: February 20, 1991

By the Review Board: MARINO (Chairman), BLUMENTHAL and ESBENSEN.

1. By *Memorandum Opinion and Order*, 5 FCC Rcd 7614 (1990), the Board reflected that the ALJ had decided upon an alternate-day, share-time grant to these two public institutions in the above-captioned comparative broadcasting licensing proceeding.[1] We further observed that, whereas the Maricopa County exceptions openly evinced a willingness to accept a share-time, Arizona State had not so signalled. Rather than order a share-time grant that might be still-born for lack of an amenable co-partner,[2] we asked Arizona State to advise the Board as to whether it would negotiate with Maricopa County toward a joint operation of the proposed facility or whether it would demand from the FCC an exclusive grant to one of the two remaining noncommercial applicants.

2. On February 7, 1991, Arizona State, by counsel, filed a statement for the record, concurred in by counsel for Maricopa County, apprising the Board, *first*, that it would not accept "grants to both applicants for part-time operations, no matter what the operating schedules"; but, *second*, that it was "willing to negotiate a settlement to this proceeding which would result in a grant of the frequency to a cooperative entity established by ASU and Maricopa County." It further stated that "[t]he Board expressly suggested this alternative," that the alternative "is well worth pursuing," and that "[i]nformal discussions between the applicants to explore the creation of a joint venture have begun."

3. However, Arizona State claims that in order to fully explore the legal and administrative matters attendant thereto, the forty-five day negotiation period afforded by the Board in its December *Memorandum Opinion and Order* is insufficient for the task, that "it is most unlikely that the task can be accomplished before the summer," and it requests that "additional time until October 1, 1991 be granted in order to formulate and present a plan for joint operation to the Review Board."

4. To be sure, the Board is aware of the potential for delay when the channels of a government bureaucracy must be negotiated. [3] And, it is correspondingly conscious of the law's beneign countenance of amicable settlements, however long aborning, *see, e.g., James U. Steele*, 4 FCC Rcd 4700 (1989), perforce we would warrant when there might be involved public money better spent on mediation rather than litigation. At the same time, though, we observe that the cardinal purpose of encouraging settlements is that an agreement "will serve the public interest by terminating this lengthy comparative proceeding and by *expediting the initiation of new FM service* . . .," *id.*, at 4700 (emphasis added); and it is to that public interest that the Commission is dedicated (see our *Memorandum Opinion and Order* at n.5).

5. Balancing the Commission's dedication to the expeditious inauguration of new broadcast services to the public and the stated needs of Arizona State to traverse what it fairly depicts as a procedural labyrinth, the Board -- which must heed its own procedural mandates [4] -- will defer taking up the exceptions of the applicants until June 30, 1991, [5] with the earnest aspiration that an agreement can forged considerably in advance of that date. In order to assure that the parties are proceeding deliberately apace, we additionally request a status report by April 15, 1991.

6. ACCORDINGLY, IT IS ORDERED, That the parties ARE AFFORDED an extension of time to and including June 30, 1991 within which to file a plan for joint operation of the proposed station, and that the parties SHALL FILE a status report on or before April 15, 1991.

FEDERAL COMMUNICATIONS COMMISSION

Norman B. Blumenthal
Member, Review Board

FOOTNOTES

[1] *Initial Decision*, 5 FCC Rcd 4081 (ALJ 1990).

[2] This unfortunate result occurred following *Southeastern Bible College, Inc.*, 85 FCC 2d 936 (Rev. Bd., 1981), where a previous Board made a share-time grant despite being advised that no such grant would be accepted. Thus, the Board's lengthy decision was futile and its grant was never effectuated. Our *Memorandum Opinion and Order* (at n.5) in this proceeding indicated that we would not repeat the practice here.

[3] At oral argument, Arizona State counsel patiently reminded the Board that "state universities are bureaucracies." Tr. 958. As to a settlement agreement, Arizona State here asserts that:

> approval from the governing boards of both ASU and Maricopa will be required before this plan can be submitted to the Review Board for its approval. The ASU Board is scheduled to meet nine times this year, with no meetings scheduled for April, August, or November. Once an item is ready for presentation to the ASU Board it gen-

erally takes six to seven weeks for committee review and scheduling. Public notice and sunshine requirements account for much of the lag. Also, the approval process for highly complicated or novel issues often takes longer. Moreover, any Board member can cause an item to be referred back to the originating committee or to another committee, so unexpcted delays are possible.

[4] The Commission recently declared that, in order to expedite new broadcast service, "the Review Board should be able to complete its consideration of routine cases within four months of the filing of exceptions, *i.e.*, approximately five and a half months after the issuance of the *I.D.*" *Proposals to Reform the Comparative Hearing Process to Expedite the Resolution of Cases, FCC 90-410, released December 21, 1990, at para. 49.* The Board's prior indulgence of a ninety-day settlement period trespasses upon that standard.

[5] Unless, of course, the Commission orders otherwise, *see* note 4, above.

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 89-293

In re Applications of

MARGARET ESCRIVA File No. BPH-871124MG

SPACECOM, INC. File No. BPH-871124MW

For a Construction Permit for a
New FM Station on Channel 223A
in Topeka, Kansas

Appearances

Meredith S. Senter, Jr., and *Stephen D. Baruch*, on behalf of Margaret Escriva; *John Wells King* and *Kathleen Victory*, on behalf of SpaceCom, Inc.; and *James Shook*, on behalf of the Chief, Mass Media Bureau.

INITIAL DECISION OF
ADMINISTRATIVE LAW JUDGE
JOSEPH CHACHKIN

Issued: February 7, 1991; Released: February 19, 1991

PRELIMINARY STATEMENT

1. This case involves the applications of Margaret Escriva (Escriva) and SpaceCom, Inc. (SpaceCom) for a new FM station on Channel 223A at Topeka, Kansas. Two other applications originally designated for hearing have been dismissed. *See Memorandum Opinion and Order*, FCC 90M-1466 (Admin. L. Judge, released June 4, 1990) (dismissed American Indian application); *Order*, FCC 89M-2133 (Admin. L. Judge, released August 22, 1989) (dismissed Plains FM Limited Partnership application).

2. The hearing designation order specified two issues with respect to the remaining applicants:

> To determine which of the proposals would, on a comparative basis, best serve the public interest.
>
> To determine, in light of the evidence adduced pursuant to the specified issues, which of the applications should be granted, if any.

Margaret Escriva, 4 FCC Rcd 5204, 5205 (Audio Services Div. 1989) (*HDO*).

3. Subsequently, the Presiding Judge added a city-grade coverage issue against Margaret Escriva by *Memorandum Opinion and Order*, FCC 89M-2370, released September 29, 1989. By *Order*, FCC 90M-168, released January 25, 1990, the Presiding Judge granted Escriva's motion for summary decision and resolved the issue in her favor.

4. A prehearing conference was held on August 29, 1989. A hearing session was held on January 22, 1990. By *Order*, FCC 90M-338, released February 21, 1990, the Presiding Judge closed the record.

5. Thereafter, the Presiding Judge modified the issues by *Memorandum Opinion and Order*, FCC 90M-600, released March 23, 1990. The Presiding Judge reopened the record and added the following issues against Escriva:

> 1. To determine whether Margaret Escriva misrepresented or exhibited lack of candor to the Commission in failing to disclose the role of her fiance, William Cordell, in exercising control over her proposal, and whether he is the real party in interest to the application of Margaret Escriva.
>
> 2. To determine whether Margaret Escriva misrepresented or exhibited lack of candor to the Commission in certifying her financial qualifications to the Commission.
>
> 3. To determine in light of the evidence adduced under the foregoing issues, the effect thereof upon Margaret Escriva's basic qualifications to be a Commission licensee.
>
> 4. To determine whether Margaret Escriva is financially qualified to construct her proposed facilities.

The burden of proceeding and the burden of proof as to all four added issues were placed upon Escriva.

6. A prehearing conference relating to the added issues was held on April 5, 1990. The hearing was reconvened on June 11, 1990 and concluded on June 12, 1990, at which time the record was closed. Transcript (Tr.) at 649; *Order*, FCC 90M-1664 (Admin. L. Judge, released June 14, 1990). Proposed findings of fact and conclusions of law were filed July 27, 1990; replies were filed August 10, 1990.

FINDINGS OF FACT

Standard Comparative Issue

Margaret Escriva

Ownership Structure

7. Margaret Escriva is a sole proprietor (Escriva Ex. 1 at ¶ 2).

Media Diversification

8. Escriva has no interest in any medium of mass communications (Escriva Ex. 1 at ¶ 13).

Integration of Ownership Into Management

9. Escriva proposes 100 percent integration of ownership into management. Escriva will work full-time, a minimum of 40 hours per week, as the station's General Manager (Escriva Ex. 1 at ¶ 4).

10. If Escriva's application is granted, Escriva will resign her current employment in order to fulfill her commitment to the station and move to Topeka (Escriva Ex. 1 at ¶¶ 3, 5).

11. Escriva is Hispanic and female (Escriva Ex. 1 at ¶¶ 6, 7).

12. Escriva has past broadcast experience. From January 1983 through August 1988, Escriva was employed in varying capacities at radio station KTRH, Houston, Texas. From January 1983 to January 1984, her position at station KTRH was part-time. All of her positions at station KTRH from January 1984 through August 1988 were full-time (Escriva Ex. 1 at ¶¶ 8-12).

13. From January 1983 to May 1984, Escriva was the operator of station KTRH's audio/technical board, and was the station's liaison to the Houston community for community events. She also wrote and produced public service announcements for the station (Escriva Ex. 1 at ¶ 9).

14. From May 1984 to June 1985, Escriva was the executive producer of three of station KTRH's regular talk programs (Escriva Ex. 1 at ¶ 10).

15. From June 1985 to July 1986, Escriva was the Community Affairs Director and Assistant Operations Manager of station KTRH (Escriva Ex. 1 at ¶ 11).

16. From July 1986 to August 1988, Escriva was the Program Manager of station KTRH. In this capacity, she was responsible for the supervision, coordination, management, and evaluation of all station programming functions and personnel. She was also responsible for hiring and training on-air and production personnel, for developing and formalizing operations policy for newsroom personnel, and for coordinating the station's programming efforts with its sales and commercial traffic departments (Escriva Ex. 1 at ¶ 12). Escriva actively participated in the day-to-day management, programming, personnel, and business aspects of the station's operations. (*Id.*)

Auxiliary Power

17. Escriva will install emergency power generators at the studio and at the transmitter site of the Topeka FM station (Escriva Ex. 1 at ¶ 14).

Spacecom, Inc.

Ownership Structure

18. For comparative purposes, SpaceCom, Inc. is a Minnesota corporation wholly owned by Space Center, Inc. The stock of Space Center, Inc. is held in a voting trust for the benefit of D.G. McNeely, and H.G. McNeely, Jr. The trustees of the voting trust are W.E. Barsness, M.W. McDonald, J.M. Pierson, and S.W. Richey. The officers and directors of SpaceCom are S.W. Richey, W.E. Barsness, M.W. McDonald, J.M. Pierson, H.G. McNeely, Jr., and Richard L. Engebretson (SpaceCom Ex. 1 at 1-2).

Media Diversification

19. For comparative purposes, SpaceCom and its principals have attributable interests in the following radio stations:

KOSO(AM), Patterson, California
KTHT(FM), Fresno, California
WCWC(AM)/WYUR(FM), Ripon, Wisconsin
KQEU(AM), Olympia, Washington
WKHY(FM), Lafayette, Indiana
KLBB(AM), St. Paul, Minnesota

(SpaceCom Ex. 1 at 2-4).

20. SpaceCom itself is the parent of the licensee of two stations, KOSO(FM), Patterson, California, and KTHT(FM), Fresno, California (SpaceCom Ex. 1 at 4).[1]

21. A company wholly owned by the president of SpaceCom, S.W. Richey, and his wife was the licensee of stations WCWC(AM)/WYUR(FM), Ripon, Wisconsin, when SpaceCom's application was frozen for comparative purposes (SpaceCom Ex. 1 at 3 and n.1, 4; Tr. 194).

22. A company 100 percent owned by Richey is the licensee of KQEU(AM), Olympia, Washington (SpaceCom Ex. 1 at 3-4).

23. Companies owned by 50 percent by Richey and 50 percent by W.E. Barsness, another officer and director of SpaceCom, are the licensees of WKHY(FM), Lafayette, Indiana, and KLBB(AM), St. Paul, Minnessota (SpaceCom Ex. 1 at 3-4).

24. Both Richey and Barsness are trustees of the voting trust that ultimately controls SpaceCom. Other officers, directors and trustees of SpaceCom, its parent, and the voting trust are also officers and directors of the licensees of the above-referenced stations (SpaceCom Ex. 1).

Integration of Ownership Into Management

25. SpaceCom does not propose any integration of ownership into management (SpaceCom Ex. 1 at 4).

Auxiliary Power

26. SpaceCom will install auxiliary power generators at both the studio and transmitter locations of the Topeka station (SpaceCom Ex. 1 at 5).

The Real-Party-In-Interest Issue Against Escriva

27. Escriva is applying for the Topeka station as a sole proprietor (Escriva Ex. 4 at ¶ 1). The real-party-in-interest issue was designated to inquire into whether William E. Cordell, Jr., is a real party in interest in Escriva's application.

Escriva's Background

28. Escriva's interest in radio dates back to when she was in high school in Rochester, New York. When Escriva moved to Houston and enrolled in the University of St. Thomas in 1980, she became involved in the University's communications department, and subsequently switched from an accounting major to a communications major (Escriva Ex. 4 at ¶¶ 2-3).

29. In December 1982, Escriva signed on as an unpaid intern to work on a special "radio-thon" at radio station KTRH-AM in Houston (Escriva Ex. 4 at ¶ 4). Escriva's relationship with Station KTRH was to continue for nearly six years, during which time she would rise from an unpaid intern to the station's Program Manager -- a position in which she had supervisory responsibility for at least twenty station employees (Escriva Ex. 1 at ¶ 12; Tr. 106-107).

30. After Escriva's internship at station KTRH, the station hired her, in January 1983, as a part-time technical producer (Escriva Ex. 4 at ¶ 4). In January 1984, she began working at the station full time. In May 1984, she became the executive producer of three of station KTRH's regular talk shows (Escriva Ex. 1 at ¶ 10). From June 1985 to July 1986, Escriva was the Community Affairs Director and Assistant Operations Manager of station

KTRH (Escriva Ex. 1 at ¶ 11). In July 1986, station KTRH promoted Escriva to Program Manager -- a position she held until August 1988.

31. As Program Manager of station KTRH, Escriva supervised the station's programming and production departments (Escriva Ex. 4 at ¶ 8). She was responsible for hiring and training on-air and production personnel, for developing operations policy for newsroom personnel, and for coordinating the station's programming efforts with its sales and commercial traffic departments (Escriva Ex. 1 at ¶ 12). She also developed the station's on-air operations manual, its Emergency Broadcasting Systems policy manual, and its programming guidelines (Escriva Ex. 4 at ¶ 8). Escriva actively participated in the day-to-day management, programming, personnel, and business aspects of the station's operations, and was intimately involved in the development, institution, and evaluation of all station programs and policies (Escriva Ex. 1 at ¶ 12; Escriva Ex. 4 at ¶ 8).[2]

32. In November 1987, Escriva applied for the Topeka station (Tr. 18-19).

33. In August 1988, station KTRH offered Escriva a promotion to Program Director/Operations Manager. Escriva declined the position, deciding instead to go to work for Spectrum Communications & Engineering, Inc. (Spectrum Corp.), which is owned by William E. Cordell, Jr., the putative real party in interest (Escriva Ex. 4 at ¶¶ 9, 39).

Cordell's Background

34. Cordell is a registered professional engineer, who has lived in Texas most of his life. He attended both high school and college in Houston, graduating from the University of Houston with a degree in Electrical Engineering (Escriva Ex. 5 at ¶ 1; Tr. 605).

Employment History

35. Cordell's career has been spent almost exclusively in technical positions that relate to his training as an electrical engineer. Immediately after college, Cordell worked for Houston Christian Broadcasters, licensee of Houston station KHCB-FM. He installed its new transmitter and antenna system. Subsequently, in October 1972, Cordell was employed by Columbia Gulf Transmission Company, where he was involved in the design and construction of microwave and communications systems, control systems, and offshore facilities (Escriva Ex. 5 at ¶ 2).

36. While employed at Columbia Gulf, Cordell also worked part-time as the chief engineer of Houston radio station KRLY(FM). In November 1977, Cordell started full-time employment with KRLY (Escriva Ex. 5 at ¶¶ 2-3).

37. In November 1978, Cordell returned to part-time status at KRLY, and established his own electrical contracting company. The company did well until one of the partners became very ill and had to withdraw from the company. This eventually led to the termination of the company (Escriva Ex. 5 at ¶ 3).

38. Also in November 1978, Cordell began working for Houston stations KIKK(AM) and (FM) as their chief engineer. While working at KIKK, he became the technical director for the Senior Road Tower Group. In this capacity, and in addition to his responsibilities at stations KIKK-AM/FM, Cordell worked with the FM stations in the Houston market in connection with the engineering and construction of a $10 million, 9 station combined master antenna on a new 2000 foot tower (Escriva Ex. 5 at ¶ 14). Cordell became the project administrator when actual construction was started (Escriva Ex. 5 at ¶ 4). After completion of the Senior Road facility in October 1983, Cordell continued as the administrator until the Spring of 1984.

39. In early 1984, Cordell left KIKK and went to work for the Rusk Corporation, licensee of KTRH(AM) and KLOL(FM), as Technical Director. Cordell worked at the Rusk Corporation until October 31, 1988 (Escriva Ex. 5 at ¶ 5).

40. Beginning in November 1988, Cordell began working at Spectrum Engineering Company full time. During his tenure as administrator of the Senior Road project, Cordell established Spectrum Engineering Company, a sole proprietorship, which he registered as a "dba". Spectrum Engineering provides engineering services for two-way radio companies and performs engineering and technical work for broadcast stations. Spectrum also manages a number of building rooftop and tower antenna sites for the owners (Escriva Ex. 5 at ¶ 5).

41. Since its establishment in 1978, Spectrum has grown into two operational companies, Spectrum Engineering Company (Spectrum d/b/a) and Spectrum Communications & Engineering, Inc. (Spectrum Corp). Cordell is the sole proprietor of Spectrum d/b/a. Cordell is the sole stockholder, officer, and director of Spectrum Corp (Escriva Ex. 5 at ¶ 5). Between them, Spectrum d/b/a and Spectrum Corp. now manage the largest number of high and medium rise building rooftops within the Houston area, and also provide engineering site and design work for a large number of broadcast, two-way and microwave clients (Escriva Ex. 5 at ¶ 14).

Media Ownership

42. Cordell's history of ownership in media of mass communications is limited. In the early 1980s, Cordell was a 5 percent stockholder of an applicant for a new FM station at Lockhart, Texas. The construction permit was ultimately awarded to a competing applicant (Escriva Ex. 5 at ¶ 6).

43. In October 1986, Cordell purchased a 40 percent ownership interest in Freeport Broadcasting Corporation, the general partner of Freeport Broadcasting, Ltd., permittee of a new FM station at Freeport, Texas. The Freeport station, KGLF, was sold to a third party in September 1987, shortly after it was placed on the air (Escriva Ex. 5 at ¶ 7; Tr. 606-607).

44. In November 1987, Cordell (through Spectrum d/b/a) applied for a new FM station at Abilene, Texas (Escriva Ex. 5 at ¶ 9). Upon designation for hearing in November 1988, Cordell decided not to prosecute his application and declined to enter an appearance in the case (Escriva Ex. 5 at ¶ 13; Tr. 377-378).

45. Cordell has no present ownership interest in any broadcast facility, and has had none except for his minority interest in station KGLF which was sold in September 1987 (Escriva Ex. 5 at ¶ 13; Tr. 606-607).

46. Cordell has no ownership interest in Escriva's Topeka application. He testified that he has no understanding with Escriva regarding an ownership interest in her application or the Topeka station; and he has no expectation that he will, as a result of his engagement and

impending marriage to Escriva, acquire an ownership interest in the Topeka station (Escriva Ex. 5 at ¶ 26; Tr. 331, 610, 611).

Escriva's Relationship With Cordell

47. Escriva and Cordell met in 1984, when Cordell started to work at stations KTRH(AM) and KLOL(FM) (Tr. 98; Escriva Ex. 4 at ¶ 10). Over the course of the next few years, Escriva's contact with Cordell increased. Escriva often went out to lunch with Cordell and other employees at station KTRH (Escriva Ex. 4 at ¶ 11).

48. Cordell and his former wife, Mary, separated in early October 1987, and Mary Cordell filed for divorce on October 21, 1987 (Escriva Ex. 5 at ¶ 24). By that time, Escriva and Cordell had become friends (Escriva Ex. 4 at ¶ 11; Tr. 23).

49. Prior to her separation from Cordell, Mary Cordell had maintained the bookkeeping records for Cordell's businesses. When Cordell hired someone to take over Mary Cordell's former bookkeeping responsibilities, his new bookkeeper could not operate the computerized accounting program that contained all of the Spectrum data. Escriva volunteered to help Cordell decipher the computer program and teach it to his new bookkeeper. As it turned out, the new bookkeeper did not last long, and Escriva started maintaining the books for Spectrum in her off hours from the radio station (Escriva Ex. 4 at ¶ 11; Escriva Ex. 5 at ¶ 24; Tr. 335).

50. Escriva's relationship with Cordell intensified during the Winter of 1987-1988 (Escriva Ex. 5 at ¶ 24; Tr. 609). In March 1988, Escriva suggested that she should move in with Cordell, and Cordell agreed. Both Escriva and Cordell now reside at Cordell's Houston residence (Tr. 16, 603; Escriva Ex. 4 at ¶ 37; Escriva Ex. 5 at ¶ 24).

51. Escriva has always maintained her own bank accounts. Cordell is not a signatory on any of Escriva's accounts nor is Escriva a signatory on any of Cordell's accounts (Tr. 43-44, 51). Escriva and Cordell share routine household expenses (*e.g.*, groceries), but make no joint investments or durable goods purchases (Tr. 51).

52. By the summer of 1988, Escriva and Cordell realized that Spectrum d/b/a and Spectrum Corp. were unexpectedly busy. Both Escriva and Cordell were still employed full time by Rusk Corporation (Escriva Ex. 4 at ¶ 39). Although Spectrum had a series of secretaries, it had no full-time employees to handle the upturn in business (Escriva Ex. 4 at ¶ 39).

53. At the same time, Escriva had become disenchanted with the new management of KTRH and had begun looking for other employment. She mentioned to Cordell that she would be interested in working for Spectrum (Escriva Ex. 4 at ¶ 39; Tr. 389). By the end of the Summer of 1988, as Spectrum d/b/a and Spectrum Corp. began to take on other projects, Cordell agreed (Escriva Ex. 4 at ¶ 39; Escriva Ex. 5 at ¶ 24). Escriva tendered her resignation to KTRH, and began working as the full-time office manager of Spectrum Corp. (Tr. 334-335).

54. Since August 1988, Escriva has been employed full-time as the office manager of Spectrum Corp. (Escriva Ex. 4 at ¶ 39; Tr. 344, 348). At Spectrum Corp., Escriva is paid an annual salary of $36,000, up from $32,000 when she started there in August 1988 (Escriva Ex. 4 at ¶ 57; Tr. 348-349).

55. Escriva works in the office daily, from 8:30 a.m. until roughly 6:30 p.m. Escriva oversees the day-to-day operations of the business, maintains all of its business and accounting records, negotiates and writes leases and contracts, prepares tax information, and regularly supplies information to its accountants and attorneys. As part of her accounting responsibilities, Escriva keeps track of the accounts receivable, accounts payable, banking and payroll (Escriva Ex. 4 at ¶ 57).

56. Escriva also maintains the records for Spectrum d/b/a. The sole proprietorship pays a monthly fee to the corporation for personnel and office space (Escriva Ex. 4 at ¶ 57; Tr. 351-352).

57. Escriva's last full day at KTRH was August 26, 1988. Roughly one week later, on her birthday, Cordell proposed marriage and Escriva accepted (Escriva Ex. 4 at ¶ 39).

58. The question of what Cordell would do if Escriva's application was granted and she moved to Topeka to build and operate the station had been unresolved from the date of their engagement in September 1988, until May 1990 (Escriva Ex. 4 at ¶ 39). Indeed, Escriva testified at the January 1990 hearing session that the absence of a resolution to this question had prevented them from setting a wedding date (Tr. 67).

59. In May 1990, for the first time, Cordell informed Escriva that he would not move to Topeka; his business requires his presence in Houston (Escriva Ex. 4 at ¶ 39; Escriva Ex. 5 at ¶ 26; Tr. 611-612). Both Escriva and Cordell envision a commuter marriage, where Cordell would fly from Houston to Kansas City (a two hour flight) and drive from Kansas City to Topeka (a 45 to 60 minute drive), on weekends and during other time off (Tr. 336-337, 612; Escriva Ex. 4 at ¶ 39; Escriva Ex. 5 at ¶ 26). Escriva was personally aware of at least one successful Kansas City/Houston commuter marriage (Tr. 338).

60. Escriva testified that she is the only person who has any right, obligation, or authority to exercise any control over her application or her proposed Topeka station, and that she is the only person who now has, or ever has had, any ownership interest whatsoever in her application (Escriva Ex. 4 at ¶ 59; Tr. 332). Escriva also testified that no one else has any right to acquire an ownership interest in her application, and that no one else is now or has ever been in a position to exercise any control over the proposed station (Escriva Ex. 4 at ¶ 59).

61. Cordell also testified that he has no ownership interest or understanding with Escriva that he will acquire an ownership or controlling interest in Escriva's application or station (Escriva Ex. 5 at ¶ 26; Tr. 610).

62. Escriva and Cordell also both testified that in the event of their marriage, Escriva will retain sole ownership and all management, control and other rights to the Topeka station (Escriva Ex. 4 at ¶ 59; Escriva Ex. 5 at ¶ 26; Tr. 392, 611).

63. Escriva established a Kansas corporation, Rafol Radio, Inc., in May 1990, in order to be able to assign her application to the corporation (of which she is the sole stockholder and director) prior to her marriage to Cordell. While Escriva has no present intention to assign her application to Rafol Radio, Inc., she has the ability to do so in order to ensure that her interest in the station would remain her separate property following her marriage to Cordell (Tr. 392-394). One possible vehicle to ensure this separation is a written pre-nuptial agreement

between Escriva and Cordell providing that Escriva retains exclusive ownership of the Topeka station following their marriage (Tr. 611).

Origins And Preparation Of Escriva's Application

Escriva Selected Topeka From A List Of Docket 80-90 Channels

64. In the middle of 1987, as their friendship grew, Cordell, Escriva, and other staff members of station KTRH would kibitz about the programming and management of the station, and discuss how each would run the station if given the opportunity to do so (Escriva Ex. 4 at ¶ 12; Escriva Ex. 5 at ¶ 15). In the course of these discussions, Escriva conveyed to Cordell (and others) her dream of owning a station -- a dream she thought unattainable due to the high cost of buying a station. At some point during their conversations, Cordell informed Escriva that buying a station was not the only means by which to acquire one. He told her of the FM channel allocations available in the BC Docket 80-90 proceeding (Escriva Ex. 4 at ¶ 12; Escriva Ex. 5 at ¶ 15; Tr. 64, 325).

65. Cordell had a copy of the BC Docket No. 80-90 windows list because he was providing technical assistance to a number of people considering applications for Docket 80-90 chnnels (Escriva Ex. 5 at ¶ 15).

66. In the Fall of 1987, Cordell gave Escriva a copy of FCC Public Notice Report No. W-26, released October 21, 1987. This Public Notice announced the opening of a filing window for 17 FM channels on Channel 223A or C2 (*See* Escriva Ex. 9). Escriva circled two of the communities on the list -- Navasota, Texas and Topkea, Kansas -- that initially attracted her attention. Escriva rejected the Navasota allocation because the community is relatively close to Houston, and she thought there would be too much competition for the channel (Tr. 326-327).

67. Escriva then focused on Topeka, believing it to be a community in which she would have a better chance of successfully establishing a radio station (Tr. 327). She felt that the market was small enough to be manageable for her, but not so small as to be unable to support an additional station (Tr. 64-65). Escriva confirmed her impressions by referring to two radio market research sources that were available to her at station KTRH (Tr. 65; Escriva Ex. 4 at ¶ 14).

Escriva Retained Counsel And Prepared The Non-Technical Portions Of The Application With Counsel

68. When Escriva learned of the Topeka allocation, there were only a few weeks left in the window filing period (Escriva Ex. 4 at ¶ 14).

69. At Escriva's request for suggestions of legal counsel, Cordell provided Escriva with Meredith Senter's name (Escriva Ex. 4 at ¶ 15; Tr. 328). Cordell knew Senter through their mutual connection with the Freeport, Texas FM station (Escriva Ex. 5 at ¶ 16). At that time, Cordell had never had an attorney-client relationship with Senter's law firm (Tr. 99). Escriva herself met with Senter and retained the law firm of Leventhal, Senter & Lerman as communications counsel (Tr. 328).

70. Prior to retaining Leventhal, Senter & Lerman, however, Escriva had brief discussions with another Washington, D.C. law firm with a communications practice, which represented her employer, the Rusk Corporation. Escriva decided not to retain her employer's attorneys because she was concerned that the application might be viewed by Rusk Corporation as a conflict of interest with Escriva's then-current position (Tr. 328-329).

71. In November 1987, Escriva traveled to Washington, D.C. to interview for a position with the Emergency Broadcasting System section of the FCC's Office of the Managing Director. Escriva learned that the position did not pay enough to justify her relocation to Washington; indeed, it would require her to take a 40 percent salary cut (from just over $30,000 per year to $18,000) (Tr. 395-397).

72. Escriva had traveled to Washington via Rochester, New York, where she had visited with her parents. While in Rochester, she had discussed two possible career options with her father -- a job with the FCC or the application for the Topeka station. Her father had encouraged her to apply for the Topeka station (Escriva Ex. 4 at ¶ 13). While in Washington, Escriva made the final decision to proceed with the Topeka application. She met alone with legal counsel to discuss the application process and requirements. Kathy Dole, an attorney with Leventhal, Senter & Lerman, reviewed the construction permit application in detail with her, providing her with a verbal checklist of things she needed to take care of -- such as the FAA, financial qualifications, studio and tower location, EEO requirements, public notices, and the public inspection file (Escriva Ex. 4 at ¶ 15; Tr. 507-508).

73. Escriva and Dole spent almost an entire day going over Dole's checklist, filling out the application, and discussing the application process. Dole, who prepared all of the non-engineering portions of the application with Escriva, discussed the application and had contact only with Escriva, Senter, and the engineering firm of Silliman & Silliman (Escriva's consulting engineers) (Tr. 511). Dole provided Escriva with the names of minority and female employment referral sources in Topeka, and Escriva contacted these organizations for inclusion in her proposed station's Model EEO Program (Tr. 521-522; Escriva Ex. 4 at ¶ 17).

74. Due to the closeness of the filing window deadline, Escriva did not have time to arrange for financing. At counsel's recommendation, Escriva therefore certified that she was not then financially qualified (Escriva Ex. 4 at ¶ 18; Tr. 510, 520-521).

75. Nevertheless, prior to filing her application, Escriva prepared a budget (Escriva Ex. 12 at ¶¶ 7-8). Escriva personally obtained the figures used in this budget from conversations with equipment sellers. She has had no help from Cordell in the preparation of her budgets (Tr. 375).

Cordell Assisted, As A Paid Consultant, In The Technical Portions Of Application

76. Escriva knew of Cordell's engineering expertise from his work on the Senior Road Tower project and the other outside engineering projects he had performed (Escriva Ex. 4 at ¶ 10; Escriva Ex. 5 at ¶ 15). She therefore retained him to provide technical assistance (Escriva Ex. 4 at ¶¶ 16, 20). He assisted in locating a site and working with Escriva's consulting engineers, Silliman & Silliman (Escriva Ex. 4 at ¶ 16).

77. Cordell contacted his uncle, Neil Garrison (Cot) Cordell, a retiree who lives in Gardner, Kansas, about finding a transmitter site. Gardner is in the Kansas City area, approximately 45 minutes from Topeka (Tr. 367-368).

78. Cot Cordell agreed to travel to Topeka and look for sites within the areas that Cordell had marked on a map as technically permissible, provided that he (Cot) was reimbursed for his expenses (Escriva Ex. 4 at ¶ 16; Escriva Ex. 5 at ¶ 15; Tr. 109, 367-368). Cordell testified that he has provided similar site location assistance to other friends (Tr. 608-609).

79. Cot Cordell located a possible site within the area specified by Cordell, and provided Escriva with several names and phone numbers of landowners, including the name and phone number of Jack Meier. Escriva called Meier directly, explained her proposal, and inquired as to the availability of the land. Escriva and Meier agreed on a reasonable price for the property and set out their understanding in writing. Escriva forwarded information on the Meier property to Silliman & Silliman, her consulting engineers (Escriva Ex. 4 at ¶ 16; Tr. 368).

80. At Escriva's request, Cordell had recommended the engineering consulting firm of Silliman & Silliman. He contacted Silliman & Silliman to introduce Escriva and with Escriva's approval retained their services to prepare the engineering protion of Escriva's application (Escriva Ex. 4 at ¶ 16; Tr. 370). Escriva testified that it is a fairly common practice for Cordell to pay the consulting firm's retainer and other associated expenses on behalf of his clients, and then invoice the client for reimbursement (Tr. 425).

81. Cordell had known the Silliman & Silliman firm since the late 1970s, when they worked together on the Senior Road Tower project. From that time forward, Cordell would periodically assemble raw data on sites for applications for Silliman & Silliman. The work that Cordell did for Escriva's Topeka application was similar to the majority of work he did with Silliman & Silliman (Escriva Ex. 5 at ¶ 16; Tr. 608).

82. Cordell invoiced Escriva for the work he performed on her initial application and the retainer he paid to Silliman & Silliman on Escriva's behalf (Escriva Ex. 5 at ¶ 15; Escriva Ex. 4 at ¶ 20; Tr. 370). Both invoices totalled $3,800 (Tr. 400). Escriva paid Cordell's invoices out of her own money in December 1987 or the beginning of January 1988 (Tr. 97, 370, 400).

Escriva Finalized The Application

83. On November 23, 1987, Kathy Dole telecopied Escriva a copy of the completed and signed engineering portion of her application. Escriva had a substantially completed non-technical portion of the application with her when she left Washington. Cordell has never seen the final application for Topeka that Escriva filed with the FCC (Escriva Ex. 5 at ¶ 19). Escriva, by herself, reviewed the entire application, executed it, and sent it to her attorneys by overnight courier for filing on November 24, 1987 (Escriva Ex. 4 at ¶ 18; Tr. 18-20).

84. In accordance with procedures detailed for her by Dole, Escriva then called the Topeka Chamber of Commerce to inquire about setting up her public inspection file. She was directed to Ms. Nora Crouch, who works with new business in the area, and was informed that she could maintain the file at the Chamber (Escriva Ex. 4 at ¶ 19).

85. Escriva also personally contacted the local newspaper, the *Topeka Capital-Journal*, and arranged for the publication of the required notice. After Escriva sent the information to the *Topeka Capital-Journal*, she called the paper to make sure it was running properly (Escriva Ex. 4 at ¶ 19; Tr. 110).

Escriva's Post-Filing Activities In Furtherance Of Her Application Preparation Of The February 16, 1988 Amendment

86. On February 16, 1988, Escriva amended her application to certify her financial qualifications and to specify a transmitter site that would provide better coverage of Topeka.

Development Of Escriva's Financial Plan

87. After her application was filed, Escriva immediately turned her attention to the process of securing financing. During December 1987, Escriva attempted to arrange financing through several local banks and organizations that make loans to minority-owned businesses (Escriva Ex. 4 at ¶¶ 21-22).

88. Escriva met with a business loan officer at Texas Commerce Bank in Houston about her application. At that time, Escriva did her personal banking at Texas Commerce. The purpose of this meeting was to inquire about how she should formally present her requests. The bank, however, was not interested in considering any business loan for less than $500,000 and Escriva's project was just too small (Escriva Ex. 4 at ¶ 21; Tr. 104).

89. Other banks and financing sources approached by Escriva -- including Texas Commerce Chemical Bank, Allied Bank (now First Interstate Bank), Broadcast Capital Funds, Inc., and the Minority Broadcast Investment Corporation -- also either responded negatively to her approaches or failed to respond at all (Escriva Ex. 4 at ¶ 22; Tr. 104).

90. In the first part of 1988, during social outings, Escriva and Cordell discussed her financing efforts. During one conversation in January or early February 1988, Cordell suggested that he would loan Escriva the money to finance the station if he were financially able to do so (Escriva Ex. 4 at ¶ 23; Escriva Ex. 5 at ¶ 21).

91. At first Cordell did not know whether he had enough money to finance both his own then-pending Abilene, Texas application and make a loan to Escriva. However, after consultation with Cordell's accountant, Robert U. St. Jean, it was determined that Cordell had sufficient resources to loan Escriva up to $185,000 and still meet the requirements for his Abilene application (Escriva Ex. 4 at ¶ 23; Tr. 619). The specific factual circumstances surrounding this sequence of events are detailed in connection with the proposed findings of fact on the false financial certification issue.

92. In order for the $185,000 loan from Cordell to provide Escriva with sufficient capital to finance her budgeted station construction and initial operating expenses, it was necessary for Escriva to secure a secondary source of financing. Escriva had previously contacted Bernie Giesler, of Giesler Broadcast Supply, to discuss the terms necessary to finance a portion of her proposed station's equipment. Escriva knew of Giesler, since Giesler's company supplied equipment to station KTRH (Escriva Ex. 4 at ¶ 24; Tr. 109). Escriva was successful in securing a lease arrangement from Giesler (Escriva Ex. 4 at ¶¶ 24, 27; Tr. 87).

93. Insofar as the loan with Cordell is concerned, Escriva turned to her communications counsel -- Senter and Dole -- for assistance in negotiating the loan agreement, since they were familiar with the Commission's requirements. The provisions of the loan agreement itself, which is dated as of February 12, 1988 (*see* Escriva Ex. 2), were negotiated by Senter and William F. Henri, Cordell's local attorney, with input from Cordell's accountant (Escriva Ex. 4 at ¶ 24; Tr. 438-439).

94. During the negotiation process, Escriva had frequent phone conversations with Senter in which he explained particular requirements and requests of Cordell's and Henri's. Initially Cordell, through his attorney and accountant, had requested an ownership interest in Escriva's application in connection with the loan. Escriva rejected this proposal; she was not interested in giving up any ownership interest (Escriva Ex. 4 at ¶ 25; Tr. 106).

95. Escriva and her counsel discussed anticipated costs, the promissory note, interest rate, and repayment schedule (Escriva Ex. 4 at ¶ 25). Senter and Henri then negotiated each of the substantive terms of the loan. Escriva and her counsel discussed all of these provisions -- the reporting requirement, the interest rate, the loan term, the "kicker" (which, so long as the station is not sold, expires 18 months after the station commences operation), the incorporation/stock pledge requirement (which is expressly made subject to the prior written approval of the Commission), and the limits on salaries and capital expenditures -- during the course of the negotiations between Senter and Henri. Escriva had direct input on each of these provisions, and, with Senter, determined that the final provisions were acceptable to her (Escriva Ex. 4 at ¶¶ 25-26; *see* Escriva Ex. 2).

96. Henri stated that there was considerable, good faith give-and-take during the negotiating process (Tr. 441-450). Henri also testified that all of the operative provisions are typical of provisions in loan agreements (Tr. 450). According to Henri, the parties were interested in adequately compensating Cordell for the inherent riskiness of the unsecured loan, while simultaneously ensuring that Escriva did not lose control of the entity or become responsible to additional investors (Tr. 445, 530-531).

97. Susan Harrison, a principal in the broadcast financial consulting firm of Harrison, Bond and Pecaro, testified as an expert witness. Harrison testified that none of the provisions in the loan agreement, either individually or in the aggregate, resemble an actual or potential equity interest in Escriva's application or the station (Tr. 547-550, 551). In this connection, Section 8.6 of the loan agreement expressly provides that "[i]t is not the intention of the parties to be a partnership or a joint venture and nothing in this agreement should be construed to create a partnership or joint venture" (Escriva Ex. 2 at p. 10).

98. Upon her review of the loan agreement, Harrison's opinion was that the loan agreement appears to have been negotiated at arm's length. This opinion is confirmed in Escriva's testimony about the consideration given by her to the various loan provisions (Escriva Ex. 4 at ¶¶ 25-26).

Location Of New Transmitter Site

99. At the same time that Escriva was securing financing for the Topeka station, Escriva was also searching for a new transmitter site. The site specified in her application (the Meier site) appeared to require a waiver of the Commission's city-grade coverage requirement. After discussions with counsel and Seabrooke, Escriva decided to find a more suitable transmitter location (Escriva Ex. 4 at ¶ 28).

100. Escriva asked Harry Seabrooke (of Silliman & Silliman) to send her a topography map showing where she could locate her transmitter. She then asked Cot Cordell to help her locate some available land (Escriva Ex. 4 at ¶ 29; Escriva Ex. 5 at ¶ 15). Cot Cordell provided Escriva with the names of three landowners in the area identified by Seabrooke. Escriva placed several telephone calls and reached Kent Stancliffe, the owner of one of the parcels. Escriva had several discussions with Stancliffe, who ultimately gave his approval for Escriva's use of the site (Escriva Ex. 4 at ¶ 29).

101. Escriva then asked Cordell to mark the Stancliffe site on the map sent by Seabrooke, and send it to Silliman and Silliman. Cordell had no other involvement with the February 1988 amendment. Seabrooke prepared the engineering and FAA study, and forwarded them both to Escriva. Escriva alone reviewed the new engineering section and approved the amendment (Escriva Ex. 4 at ¶ 29; Tr. 370-371).

Location Of Transmitter Sites After February 16, 1988

102. After the amendment was filed, Escriva learned from Robert Silliman of Silliman & Silliman that the FAA intended to reject the Stancliffe site. In double-checking the coordinates following Silliman's call, Escriva discovered that the amendment specified the incorrect coordinates (Escriva Ex. 4 at ¶ 30).

103. Escriva then asked Cordell to contact the FAA. This was Cordell's first contact with the FAA on Escriva's behalf (Tr. 371). The FAA informed Cordell that the Stancliffe site would not be approved. Pursuant to instructions received from the FAA, Cordell then helped Escriva plot a new site (Escriva Ex. 4 at ¶ 31).

104. Escriva then contacted Mr. Lambert Schmitz, one of the landowners in the area identified by Cot Cordell. After Escriva and Schmitz agreed to a possible sales price, Escriva sent him a map on which she had had Cordell mark the location of the desired site. Schmitz returned the map with a different location marked (Escriva Ex. 4 at ¶ 31).

105. Following this second consecutive problem with accurately plotting a site, Escriva took over the site location process herself, including contacts with the FAA. From that point forward, Cordell provided no further technical assistance to Escriva (Escriva Ex. 4 at ¶¶ 32-33; Escriva Ex. 5 at ¶¶ 17-18; Tr. 374).

106. Cordell did not invoice Escriva for the services he provided in connection with the location of the Stancliffe site and the follow-up thereto (Tr. 374-375). At this time, Escriva was providing unpaid, part-time bookkeeping assistance to Cordell's businesses, and Cordell reciprocated by providing technical assistance to Escriva at no charge (Tr. 402).

107. Following the problem with the Schmitz site, Escriva, working directly with Silliman & Silliman's Seabrooke, evaluated additional parcels of land. She contacted the landowners, their attorneys, the FAA and the Topeka land records and planning offices in the process. Ultimately, Escriva elected to return to the original Meier site (Escriva Ex. 4 at ¶ 35).

108. Following the designation of a city-grade coverage issue, Escriva decided to relocate her transmitter site yet again. Escriva had previously learned, by contacting the FAA in Kansas City, that the FAA has issued a no-hazard determination for SpaceCom's site despite the FAA's previous representations that the site was not acceptable. Escriva contacted the owner of SpaceCom's proposed site, and the property owner (M.C. Morse) agreed that Escriva could specify his property. Cordell had no involvement in these events. The Moore property is Escriva's present proposed site (Escriva Ex. 4 at ¶¶ 42-44).

109. Escriva, with the help of Seabrooke, has been monitoring the upgrade proceeding for station KZOC(FM), Osage City, Kansas. Once station KZOC is licensed to operate on FM Channel 225C2 at Osage City (in lieu of its present Channel 224A), it will most likely be possible for the Topeka station to upgrade to Channel 224C3 or, at a minimum, relocate to a transmitter site that would improve coverage of Topeka. While Escriva explored the possibility of moving to a better site in connection with her October 1989 amendment, she learned that she was barred from relocating because station KZOC is still licensed on Channel 224A. In contemplation that such a move eventually will be possible, however, Escriva has contacted potential site representatives and even has prepared a budget showing the cost savings achievable with a rooftop (as opposed to free-standing) tower (Escriva Ex. 4 at ¶¶ 41-43, 45; and pp. 70-74 (Attachment)).

Participation In Settlement Discussions

110. After designation of this case for hearing, Escriva determined that settling with her competitors would be the quickest and most efficient way of obtaining the construction permit. On several occasions, she instructed her attorneys to initiate or participate in settlement discussions. Escriva's counsel particpated in settlement discussions with counsel for the competing applicants in August 1989. In November 1989 and again in January 1990, Escriva made settlement offers to her then-two competitors, offering money in return for the withdrawal of their applications (Escriva Ex. 4 at ¶¶ 49, 54; Tr. 405-411).

111. Cordell has been opposed to Escriva's settling this case (Tr. 406-407). Cordell made his position clear to Escriva immediately after the case was designated for hearing (Tr. 407-408). Notwithstanding Cordell's opposition, Escriva pursued settlement (Tr. 405; Escriva Ex. 4 at ¶¶ 49, 54).

Escriva's Financial Commitment In Her Application

112. Escriva has spent over $40,000 of her own funds on prosecution of her application. Cordell has not reimbursed any of these expenditures, either directly or with advances under the loan agreement, and Escriva has no expectation of reimbursement by anyone. Escriva is currently paying her expenses as they come due with her own funds (Escriva Ex. 4 at ¶ 56; Tr. 401). Escriva reimbursed Cordell for his payment of the retainer to Silliman & Silliman and for other expenses, and was not herself subsequently reimbursed for these payments by advances from Cordell pursuant to the loan agreement (Tr. 400-401).

Cordell's Motive In Assisting Escriva

113. Cordell testified that he provided pre-filing technical assistance to Escriva in connection with her application out of friendship (Tr. 608). He did not expect to get anything from Escriva in return for his assistance, other than reimbursement of his expenses. Cordell has provided similar assistance to other friends in the past (Tr. 608-609).

114. By February 1988, Cordell's friendship with Escriva had deepened; Cordell was falling in love (Tr. 609). It was Cordell's feelings of love for Escriva that motivated him to agree to lend her money (Escriva Ex. 5 at ¶ 23; Tr. 609). Cordell testified that he loves Escriva very much, and wants to see her complete her dream of owning, managing, and programming a radio station (Escriva Ex. 5 at ¶¶ 23, 26; Tr. 608-609).

The False Financial Certification Issue Against Escriva

115. In November 1987, when her application was filed, Escriva certified that she was not financially qualified. There was not sufficient time between Escriva's decision to file the application and the filing deadline for her to obtain the necessary assurances (Escriva Ex. 4 at ¶ 18; Tr. 510).

116. Subsequently, Escriva changed her response and certified that she was financially qualified in an amendment filed February 16, 1988 (Tr. 32). Under her February 1988 budget, Escriva had total costs to meet of $301,137 (Escriva Ex. 4 at pp. 47-49 (Attachment C). In actuality, Escriva's costs were somewhat lower than $301,137. Escriva included her first three month's equipment lease payments twice in her February 1988 budget -- first as an operating expense (Escriva Ex. 4 at p. 48; Tr. 432-433), and second as a set off against available equipment lease credit (Escriva Ex. 4 at p. 49). When the double-counted amount is deducted, her total costs are reduced by $10,125 to $291,012 (Tr. 432-433).

117. Escriva's financial plan to meet these projected costs was as follows:

Equipment lease (net of down payment and first three month's lease payments)	$115,857
Loan from Cordell	$185,000
Escriva's funds invested in application	$5,000
	TOTAL $ 305,857

(Escriva Ec. 2, Escriva Ex. 4 at ¶ 27, Attachments B and C; Tr. 323-324, 433-434). Escriva's February 1988 financial plan provided her with a cushion of approximately $5,000 of available funds over what she believed to be her projected expenses and a cushion of almost $15,000 over actual estimated expenses.

118. The steps that Escriva took and the basis for her certification are set forth below: After filing her application, Escriva attempted to secure commercial financing. Escriva's efforts are detailed in ¶¶ 87-89, *supra*. Broadcast lending expert Susan Harrison observed that the inability

of Escriva to secure institutional financing was not surprising given the circumstances; *i.e.*, Escriva was seeking a single station loan, she had no collateral, the amount of the loan was relatively small, and the October 1987 stock market crash had just occurred (Tr. 543-544).

119. During the first part of 1988, Escriva and Cordell discussed Escriva's inability to obtain financing for her application. In one of these conversations, Cordell suggested to Escriva that he would loan her the money to build and operate her station if he were financially able to do so (Escriva Ex. 4 at ¶ 23; Escriva Ex. 5 at ¶ 21).

120. At first, Escriva did not believe that Cordell (or any individual she knew) had sufficient funds to make such a loan. Cordell, however, urged Escriva to consider his offer, and Escriva agreed to accompany Cordell to a meeting with his accountant, Robert U. St. Jean (Escriva Ex. 4 at ¶ 23).

121. At this meeting, which was Escriva's first contact with St. Jean, St. Jean suggested several possible methods of obtaining lender financing. St. Jean then called several bankers, but was unable to locate institutional funds (Escriva Ex. 4 at ¶ 23; Escriva Ex. 5 at ¶ 20; Escriva Ex. 6 at ¶ 19).

122. After this first meeting, Escriva obtained an equipment lease proposal for the Topeka station (Escriva Ex. 4 at ¶ 27). Escriva received the lease proposal orally from Bernie Geisler, who forwarded a confirming written proposal several days later (Escriva Ex. 4 at ¶ 27).

123. Escriva then met separately with St. Jean in early February 1988. Escriva and St. Jean reviewed Escriva's November 1987 budget and the equipment lease proposal from Geisler. Together, they made refinements to the budget, and transferred this information to a copy of the old FCC Form 301 (Escriva Ex. 4 at ¶ 27, Attachment C). Escriva's counsel had provided St. Jean with a copy of the financial qualifications section of the old FCC Form 301 (Escriva Ex. 6 at ¶ 8).

124. Immediately after she finalized her budget, Escriva, St. Jean, Cordell, and Henri (Cordell's attorney) met to discuss the Escriva/Cordell loan agreement. Senter (Escriva's attorney) was present by speakerphone.

125. At this meeting, Escriva received a copy of the Statement of Financial Condition for William E. Cordell, Jr., dated as of January 31, 1988 (Cordell January 1988 Financial Statement). The Financial Statement showed that Cordell had assets totalling $612,000 and a net worth of $410,150 (Escriva Ex. 6 at Attachment B). Also, at this meeting Escriva first saw Cordell's budget for the Abilene station (Escriva Ex. 4 at ¶ 27; Tr. 413).

126. During the meeting, St. Jean informed the participants that he had determined that Cordell had net liquid and liquidable (i.e., readily convertible to cash) assets totalling $448,550, as follows:

Cash in checking and savings accounts	$115,750
Note receivable	$ 30,000
Investment in common stock and other marketable securities	$ 44,800
Cash held in bank account of 100%-owned company	$ 10,000
Net realizable value of leasing business, based on current purchase offer from Shaffer & Associates	$250,000
Less: current portion of note payable and consumer debt	($2,000)
Total net liquid and liquidable assets	$448,500

(Escriva Ex. 6 at ¶¶ 9-13; Tr. 413, 576). Based on the materials that Senter had provided him, St. Jean knew the Commission's standard for establishing financial qualifications (Escriva Ex. 6 at ¶ 8).

127. St. Jean based the $250,000 valuation of Spectrum d/b/a on an outstanding offer to purchase the business from Joe Shaffer of Shaffer & Associates, Inc., a competitor (Escriva Ex. 6 at ¶ 13 and p. 36 (Appendix F); Escriva Ex. 5 at ¶ 12). Cordell owned Spectrum d/b/a free and clear; the business had no liabilities (Escriva Ex. 6 at ¶ 13; Tr. 418).

128. Both St. Jean and Henri, Cordell's attorney, were intimately involved in the negotiations between Cordell and Shaffer (Tr. 451). Henri testified that Shaffer's offer of $250,000 for Spectrum d/b/a was a firm offer, and that Shaffer was extremely eager to purchase the business (Escriva Ex. 5 at ¶ 12; Escriva Ex. 6 at ¶ 13; Tr. 451-453; 533-537).

129. St. Jean testified that the $30,000 note receivable was properly included as a current asset; in fact, the $30,000 note was paid shortly thereafter, and was deposited into Cordell's bank account on March 1, 1988 (Escriva Ex. 6 at ¶ 10 and p. 30 (Attachment D)).

130. The remaining assets consisted of cash and marketable securities. St. Jean testified that Cordell had unrestricted access to the funds in William Cordell and Spectrum d/b/a bank accounts (Tr. 577).

131. After totalling all of Cordell's liquid and liquidable assets, St. Jean then reduced the total by the current portion of Cordell's mortgage principal and his general consumer debt (Escriva Ex. 6 at ¶ 12; Tr. 582). St. Jean thus determined that Cordell had, as of January 31, 1988, net liquid and liquidable assets of $448,550 (Escriva Ex. 6 at ¶ 9).

132. After making this determination, St. Jean concluded that Cordell had sufficient net liquid and liquidable assets on hand to fund his net cash requirements of $164,942 for the Abilene station (Escriva Ex. 6 at ¶¶ 6, 15).

133. St. Jean then informed Cordell, in Escriva's presence, that Cordell had sufficient net liquid assets both to fund the Abilene application and to loan $185,000 to Escriva (Escriva Ex. 4 at ¶ 27; Escriva Ex. 6 at ¶ 20; Tr. 416). Escriva's testimony establishes that she has a solid grasp of the nature of the assets that went into St. Jean's determination of Cordell's net liquid and liquidable assets (Tr. 416-422).

134. The following table sets forth St. Jean's analysis:

Cordell's net liquid and liquidable assets	$448,550
Cordell's Abilene commitment	(164,942)
Net liquid and liquidable assets available after Abilene commitment	283,608

Cordell's loan commitment to Escriva	(185,000)
Net liquid and liquidable assets available after commitments to Abilene and Escriva	$98,608

(Escriva Ex. 6 at ¶ 20).

135. Within a day or two after Escriva's second metting at St. Jean's office in early February 1988, Escriva and Cordell reached an agreement on the terms of the loan commitment (Escriva Ex. 4 at ¶ 27).

136. On February 12, 1988, Escriva certified that she was financially qualified to construct and operate her proposed station for three months without revenue.

137. Susan Harrison, the broadcast financial expert who testified at the hearing, was presented with a hypothetical question that encompassed the pertinent facts set forth above. The hypothetical assumed the following facts: (a) in February 1988, Escriva presented Harrison with a copy of Cordell's January 1988 financial statement and the supporting documents that was attached to St. Jean's written testimony; (b) Escriva stated that Cordell had agreed to loan her $185,000, but before he could make that loan, he would also have to satisfy another commitment in the amount of $165,000; and Escriva then inquired whether it would be reasonable for her to believe that Cordell could meet his commitment to make the $185,000 loan (Tr. 564).

138. In response to this hypothetical, Harrison testified that on the basis of the additional information concerning the $30,000 note receivable and the $250,000 valuation of Cordell's business that is included in St. Jean's written direct case testimony, it would be reasonable for Escriva to assume that Cordell was able to meet his $185,000 loan commitment (Tr. 564-565).

Escriva's Present Financial Qualifications

139. Under Escriva's current budget, she has total costs to meet of $300,170 (Escriva Ex. 7 at 3-5; Tr. 312-313). In fact, Escriva's projected costs are lower than $300,170. The first three month's equipment lease payments are included twice -- once in the monthly operating expense category (Escriva Ex. 7 at 2), and again as a reduction to the total amount available from Escriva's equipment lessor (Escriva Ex. 7 at 5). When the double-counted amount is deducted ($3,125 per month for 3 months), her total costs are reduced to $290,795 (Tr. 428-431).

140. Escriva's financial plan to meet these projected costs is as follows:

Equipment lease (net of down payment and first three month's lease payments)	$115,875
Loan from Cordell	$220,000
Escriva's funds invested in application	$40,000
TOTAL	$375,875

(Escriva Ex. 2, Escriva Ex. 4 at ¶ 27 and Attachment B, ¶¶ 55-56; Escriva Ex. 8; Tr. 333). Escriva's current financial plan provides her with a cushion of $85,080 of available funds over projected expenses.

141. The Statement of Financial Condition for William E. Cordell, Jr., dated as of March 31, 1990 (Cordell's March 1990 Financial Statement) (Escriva Ex. 6 at ¶ 21 and pp. 42-47 (Appendix H)), shows that Cordell has net liquid assets in excess of $316,000 as follows:

Cash in banking accounts	$232,323
Marketable securities	$87,986
Total current assets	$320,309
Current liabilities	($3,691)
Net current assets	$316,618

(Escriva Ex. 6 at ¶ 22; Tr. 592-593, 638-641).

142. Moreover, Cordell's March 1990 financial statement shows that Cordell's net worth is now $972,068, up from $410,150 as of January 31, 1988 (Escriva Ex. 6 at pp. 20, 45).

143. Because Cordell dismissed his Abilene, Texas FM application shortly after November 1988, Cordell's only present commitment is the approximately $175,000 he remains obligated to loan Escriva under their February 12, 1988 loan agreement, as amended by the June 4, 1990 second amendment (i.e., $220,000 minus $45,000 in net advances) (Escriva Ex. 5 at ¶ 25; Tr. 575).[3]

144. Escriva testified that she has reviewed Cordell's March 1990 financial statement, and is confident that Cordell has sufficient net liquid assets to meet his commitment (Escriva Ex. 4 at ¶ 55). St. Jean, who is familiar with Cordell's financial condition, also stated that in his opinion, Cordell has sufficient net liquid assets to meet his commitment to Escriva (Escriva Ex. 6 at ¶ 3; Tr. 575). St. Jean also testified that to his knowledge there have been no adverse changes in Cordell's financial condition since March 31, 1990 (Tr. 575).

CONCLUSIONS

Qualification Issues

Real Party In Interest Issue

145. The test for determining whether a third party is a real party in interest is whether that person has an ownership interest, or will be in a position to control, actually or potentially, the operation of the station. *San Joaquin Television Improvement Corp.*, 2 FCC Rcd 7004, 7008 (1987). Here, Escriva is applying for the Topeka station as a sole proprietor. Because Escriva is the exclusive *de jure* owner of her application, the focus of the real-party-in-interest inquiry is necessarily centered on the question whether the participation of William Cordell in Escriva's application has risen to a level where Cordell is able to dominate the management of Escriva's affairs. As demonstrated below, this question must be answered in the negative.

146. The record establishes that Escriva has been in exclusive control over every phase of the preparation and prosecution of her application. This includes the selection of the community, the decision to file the application, the securing of all transmitter sites and preparation of corresponding budget proposals, the process of obtaining fi-

nancing, and the contemplation and making of settlement offers. At every critical juncture, Escriva alone has had sole ultimate responsibility for her own application. Moreover, unlike other applicants in cases involving real party in interest issues, Escriva has a legitimate financial stake in the Topeka proposal. She has spent more than $40,000 of her own money in the prosecution of her application. Escriva has no agreement with Cordell or anyone else that she will be reimbursed for these payments.

147. The record requires the further conclusion that Cordell is not in a position to exercise control over either Escriva's application or the Topeka station. Cordell's role in Escriva's application has never been a controlling one. The record discloses that Cordell, at Escriva's request provided some early guidance, made some referrals, and, for a fee, provided Escriva with the types of engineering services that he has provided clients for years. However, the record also leaves no doubt that the ultimate decision on every issue has been made by Escriva.

148. Moreover, Cordell's agreement to loan money to Escriva does not shift control to Cordell. Unlike cases such as KOWL, Inc., 49 FCC 2d 962 (Rev. Bd. 1974), where the Commission held that one-sided financial arrangements necessitated further inquiry into the question whether control passed to the lender, Escriva's loan agreement with Cordell is the product of extensive negotiations. That loan agreement, the product of arms-length negotiations, contains typical creditor-protection provisions and does not convey an ownership interest or control to Cordell. *See Flathead Valley Broadcasters*, 5 RR 2d 74 (Rev. Bd. 1965).

149. A person's desire to assist a loved one in establishing his or her own business has been recognized as a legitimate motive for a non-party's limited participation in an application. *See High Sierra Broadcasting, Inc.*, 96 FCC 2d 423, 435 (Rev. Bd. 1983). The record shows that it was Cordell's love for Escriva that motivated him to make the loan to Escriva. Cordell's uncontradicted testimony demonstrates his desire, out of friendship and love, to help Escriva achieve her dream of owning and operating a radio station entirely on her own. In addition, Cordell has testified that all rights will remain with Escriva after their marriage. Escriva and Cordell contemplate that they will enter into a prenuptial agreement to the effect that the Topeka station will remain under Escriva's exclusive control. Moreover, Escriva recently formed a Kansas corporation, Rafol Radio, Inc., in contemplation that she may assign her application or authorization to the corporation in order to ensure that the station remains her separate property in the event she marries Cordell. Escriva is the sole shareholder, director, and operating officer of Rafol Radio, Inc.

150. Cordell testified unequivocally that he has no ownership interest in Escriva's application, and that he has no understanding with Escriva regarding an ownership interest in Escriva's application or proposed station. Cordell also expressly testified that he will not attempt to control Escriva or her station. Likewise, Escriva has also testified unequivocally that she is and will remain in control of her application and the Topeka station. In this connection, Cordell will remain in Houston to attend to his business; only Escriva will move to Topeka, Kansas. In the Presiding Judge's view, Escriva and Cordell have been truthful and fully forthcoming about their relationship and Cordell's role in Escriva's application. Their testimony is fully worthy of belief. The real party in interest issue is therefore resolved in Escriva's favor.

Financial Certification Issue

151. The record also demonstrates that Escriva certified her financial qualifications in good faith. At the time that she certified, she had a written budget, a written equipment lease proposal, an executed, firm loan commitment, and a financial statement from her lender. In assessing her qualifications, she reasonably relied on the advice of a certified public accountant. It is thus clear that prior to filing her application, Escriva engaged in serious and reasonable efforts to ascertain the predictable costs of construction and operation and gave thought to the sources of funds to meet these costs. *See Northampton Media Associates*, 4 FCC Rcd 5517, 5519 (1989), *recon. denied*, 5 FCC Rcd 3075 (1990). Therefore, Escriva "cannot be seen to have engaged in misrepresentation." *Armando Garcia*, 3 FCC Rcd 1065, 1067 (Rev. Bd. 1988). *See also, Port Huron Family Radio, Inc.*, 5 FCC Rcd 4562 (Rev. Bd. 1990).

152. Moreover, Escriva was in fact financially qualified at the time of certification. Escriva required $291,012 to fund construction and the first three months operating expenses.[4] To meet this requirement, Escriva proposed to rely on the following sources: equipment lease - $115,857; loan from Cordell - $185,000; and personal funds - $5,000.

153. According to the January 31, 1988 Financial Statement, Cordell had assets totalling $612,000, and a net worth of $410,150. Cordell's accountant testified that he determined Cordell had net liquid and liquidable assets totalling $448,550. These assets break down as follows:

Cash in checking and savings accounts	$115,750
Note receivable	$ 30,000
Investments in common stock and other marketable securities	$ 44,800
Cash held in bank account of 100%-owned company	$ 10,000
Net realizable value of leasing business, based on current purchase offer from Shaffer & Associates	$250,000
Less: current portion of note payable and consumer debt	($2,000)
Total net liquid and liquidable assets	$448,550

154. The accountant properly included in his determination two assets that are not automatically accepted by the Commission for financial qualifications purposes. One of those assets, with a stated value of $250,000, was Spectrum d/b/a (a sole proprietorship that Cordell owns free and clear of any liabilities). The other was a $30,000 note receivable held by Cordell. The note reflected a negotiated settlement of an account receivable, currently due and in

fact paid by the end of the month. All other assets included by Cordell's accountant were current assets (*e.g.*, cash and marketable securities).

155. Taking into account both the $250,000 net realizable value of Spectrum d/b/a and the $30,000 note receivable, Cordell had a cushion of $98,608 over his Abilene and Escriva commitments.

156. Under the Commission's case law, the accountant properly included the $250,000 net realizable value of Spectrum d/b/a in the amount of money Cordell had available to meet his financial commitments for Abilene and Escriva. The 1977 version of FCC Form 301, which details the standards by which an applicant is to demonstrate his financial qualifications, contains the following statement:

> If a balance sheet or a financial statement does not clearly indicate liquid and current assets sufficient in amount to meet current liabilities and in addition, sufficient liquid assets to meet the proposed commitments, it should be supplemented by a statement showing the manner in which non-liquid assets will provide such funds. When the applicant relies upon "non-liquid assets," a statement must be submitted showing the extent to which such assets have liens or prior obligations against them.

(FCC Form 301 (1977 ed.) at Section III, ¶ 4(b); Escriva Ex. 6 at Appendix C.)

157. In previous cases, the Commission has permitted an applicant to rely upon non-liquid assets, such as real estate, where a valid appraisal of the property is furnished. *Christian Children's Network, Inc.*, 101 FCC 2d 612, 614 (1985). *See also Opal Chadwell*, 4 FCC Rcd 1215, 1215, 1217 (1989) (*bona fide* offers to purchase non-liquid assets may be adequate substitutes for appraisal; case remanded for determination of value of assets in view of conflicting appraisals), *recon. in part on other grounds sub nom. Dorothy O. Schulze and Deborah Brigham*, 5 FCC Rcd 3227 (1990); *Donald E. Hilgendorf*, 4 FCC Rcd 5004, 5004, 5005 (Rev. Bd.) (case remanded for determination of value of home and two businesses; businesses had been listed for sale but elicited no offers), *recon. denied*, 4 FCC Rcd 6392 (Rev. Bd. 1989).

158. The Commission recently reaffirmed and clarified this proposition in *Port Huron Family Radio, Inc., supra*. There, the Commission accepted valuations of non-liquid assets for purposes of determining an individual lender's ability to make a loan. Among other things, the lender in *Port Huron* was relying upon used construction equipment valued at $101,000. The lender had submitted a letter dated at the time of certification which stated that the "quick sale" value of the equipment was $101,000. The Commission accepted the letter and included the construction equipment as a "liquid" assets that the lender could rely upon to meet his loan commitment (subject to a 25% downward adjustment in value in response to an unspecified suggestion from the Mass Media Bureau).

159. Here, the full $250,000 net realizable value for Spectrum d/b/a should be deemed available to Cordell to meet his financial commitments. The record contains extensive testimony as to the basis of the $250,000 valuation of Spectrum d/b/a. During the first part of 1988, Joe Shaffer of Shaffer & Associates, a competitor of Spectrum d/b/a and thus someone in the best position to assess its value, offered in writing to pay $250,000 for the business. Both Cordell's attorney, Henri, who handled the negotiations with Shaffer, and his accountant testified that Shaffer's offer was a firm, minimum offer, and that Shaffer was extremely eager to purchase the business for $250,000. The accountant also testified that the $250,000 valuation was net of all liabilities, because the business had none.

160. Under these circumstances, the accountant properly treated the $250,000 net realizable value of Spectrum d/b/a as available to Cordell for financial qualifications purposes. Because Shaffer's offer was firm and contemporaneous, and the business had no liabilities, there is no need for the $250,000 figure to be adjusted downward or otherwise reduced.

161. A firm offer is a much more reliable indicator of actual value than an appraisal or estimate. Nevertheless, even if the value of Spectrum d/b/a is arbitrarily adjusted downward by 25 percent (from $250,000 to $187,500, a reduction of $62,500), Cordell would still have had sufficient assets under the Commission's standards without including the $30,000 note receivable, to meet both his Abilene and Escriva commitments. (The $98,608 cushion would be reduced by $30,000 for the note and by $62,500 for the adjustment in the valuation of Spectrum d/b/a, leaving an adjusted cushion in February 1988 of $6,108.)

162. The record thus demonstrates that Escriva acted reasonably in certifying her financial qualifications on February 12, 1988. Moreover, under applicable Commission standards, Cordell possessed more than sufficient assets to finance his proposed Abilene, Texas FM station and make a $185,000 loan to Escriva. Accordingly, it is concluded that Escriva certified her financial qualifications in good faith in February 1988.

Current Financial Qualifications

163. The final basic qualifying issue is whether Escriva is presently financially qualified to construct and operate the Topeka station without revenues. This question is also answered in the affirmative.

164. Escriva's present budget shows total projected construction and initial operating costs of $290,795. To meet these costs Escriva is relying upon funds in the amount of $375,875 from the following sources: equipment lease - $115,875; loan from Cordell - $220,000; personal funds $40,000.

165. Cordell's March 1990 Financial Statement shows cash on hand and marketable securities in excess of $316,000 and a net worth of $972,068. Moreover, Cordell's accountant testified that since March 1990, there have been no adverse changes in Cordell's financial condition. It is therefore concluded that Escriva is currently financially qualified.[5]

Standard Comparative Issue

166. Having determined that Escriva is basically qualified, it is appropriate to consider the respective comparative postures of the applicants. Escriva is clearly the comparatively superior applicant. Escriva is entitled to a moderate to substantial diversification preference. She has no other media interests whereas SpaceCom and its principals have numerous attributable interests. Also, Escriva proposes and is entitled to 100% quantitative integration

credit. SpaceCom proposes no integration. The public interest is therefore served by a grant of Escriva's application.

Accordingly, IT IS ORDERED, That unless an appeal from this Initial Decision is taken by a party, or it is reviewed by the Commission on its own motion in accordance with Section 1.276 of the Rules,[6] the application of Margaret Escriva for a construction permit for a new FM station on Channel 223A in Topeka, Kansas IS GRANTED; and the application of SpaceCom, Inc. IS DENIED.

Joseph Chachkin
Administrative Law Judge
Federal Communications Commission

FOOTNOTES

[1] SpaceCom also reported on December 28, 1990, pursuant to Section 1.65 of the Rules, that on December 10, 1990, it had acquired the licenses of Stations KQEO/KMGA(FM), Albuquerque, New Mexico.

[2] The findings under this issue are also relevant to the integration aspect of the comparative issue.

[3] On October 29, 1990, Escriva filed a "Statement Pursuant to Section 1.65 Of The Commission's Rules." The Statement reports that on September 28, 1990, Escriva and Cordell amended their February 12, 1988 loan agreement to increase the amount of Cordell's loan commitment from $220,000 to $270,000. The parties also agreed to amend the Schedule of Values attached as Exhibit "B" to the agreement to increase the loan proceeds allocated for "Normal Procurement of FCC Construction Permit" from $60,000 to $110,000. The Statement contains a declaration from Escriva that she has reviewed Cordell's current financial situation and has satisfied herself as to his ability to fund the balance of his loan commitment to her.

[4] As discussed in Finding 116, Escriva mistakenly assumed costs of $301,137.

[5] As discussed, *supra*, the February 12, 1988 loan agreement was further amended on October 19, 1990 to increase Cordell's loan commitment from $220,000 to $270,000. However, as indicated therein, Cordell has available the necessary funds to meet his increased commitment to Escriva.

[6] In the event exceptions are not filed within 30 days after the release of this Initial Decision, and the Commission does not review the case on its own motion, this Initial Decision shall become effective 50 days after its public release pursuant to Section 1.276(d).

Before the
Federal Communications Commission
Washington, D.C. 20554

In re Application of

SOUTH CAROLINA METRONET, INC. File No. 03531-CL-MP-89

For facilities in the Domestic Public Cellular Telecommunications Radio Service on Frequency Block A, in Market No. 90, Charleston, South Carolina

MEMORANDUM OPINION AND ORDER

Adopted: February 11, 1991; Released: February 19, 1991

By the Chief, Mobile Services Division:

1. South Carolina Metronet, Inc. (Metronet), the non-wireline licensee in the Charleston, South Carolina Metropolitan Statistical Area (MSA), has filed an application for modified facilities. A petition to deny was filed on August 31, 1989 by Palmetto Rural Telephone Cooperative, Inc. (Palmetto), a wireline applicant in the adjacent South Carolina 8 - Hampton Rural Service Area (RSA).[1] Metronet filed a response. For the reasons set forth below, we deny the petition and grant Metronet's application.

I. BACKGROUND AND CONTENTIONS

2. In its application, Metronet states that there will be a minor extension of the 39 dBu contour for cell site 10 beyond the MSA boundary and into the Hampton RSA. The extension covers 37.6 square miles and amounts to 1.3 percent of Metronet's proposed Cellular Geographic Service Area (CGSA). Metronet states that the extension is necessary to ensure adequate cellular service to highways and population centers within the MSA and is not designed to serve areas beyond the MSA. Metronet indicates that there is an irregular MSA boundary and that a directional antenna has been used to minimize the extension.

3. Palmetto argues that Metronet's application does not contain an adequate justification for the proposed extension. Noting that the extension includes 16.7 percent of the cell's land area, and extends five miles into the RSA, Palmetto also argues that the extension is not *de minimis*. Palmetto claims that the extension is unfair because it will allow Metronet to secure a large number of Palmetto's potential RSA customers.

4. In response, Metronet argues that its application included an adequate justification for the proposed extension. It reiterates that the extension is necessary because of a highly irregular MSA boundary and is small in relation to the overall CGSA. Metronet adds that the extension is into a swampy, uninhabited area and thus will not be unfair to the future RSA licensee in South Carolina 8.[2]

II. DISCUSSION

5. In *Procedures Update*, 52 Rad. Reg. 2d (P&F) 725 (1982), *aff'd. Cellular Radio Service*, 56 Rad. Reg. 2d (P&F) 1583 (1984), and in Section 22.903(a) of the rules,[3] the Commission established guidelines for configuring 39 dBu contours. The Commission stated that 39 dBu contours should be contained entirely within the MSA or NECMA, but that a *de minimis* extension beyond the CGSA would not render an application defective if the application included "a specific explanation of why it was necessary to engineer the particular cell(s) such that the 39 dBu contours could not be kept entirely within the SMSA (or NECMA)."[4] In evaluating the explanation, we take a variety of factors into account, such as the terrain and population of the area in question, the shape of adjoining boundaries and any extenuating engineering problems. In analyzing applications which propose contour extensions, we look first to see if the extension is minor, and then to see if there is a specific engineering explanation. *See, e.g., Saco River Cellular Telephone Company*, 2 FCC Rcd 2009 (Mob. Serv. Div. 1987); *Metroplex Telephone Company*, 2 FCC Rcd 7301 (Mob. Serv. Div. 1987); *GTE Mobilnet of South Texas Limited Partnership*, 4 FCC Rcd 1657 (Mob. Serv. Div. 1989).

6. The proposed extension in this case is relatively minor in size, amounting to only 16.7 percent of the the cell and only 1.3 percent of the proposed CGSA.[5] Metronet explains that the extension is necessary because of an irregular MSA boundary and that a directional antenna has been used to minimize the size of the extension. Metronet further states that the proposed extension is into a largely uninhabited area,[6] and that the purpose of the extension is to serve areas within the MSA and not areas beyond the MSA boundary. Based on these considerations, we find that the proposed extension is *de minimis* and permissible.

7. In addition, we find Metronet fully qualified to effectuate its proposal and that granting the instant application to make modifications to cellular station KNKA327 would serve the public interest, convenience and necessity.

8. Accordingly, IT IS ORDERED that the application (File No. 03531-CL-MP-89) of South Carolina Metronet, Inc. is GRANTED. This authorization does not include the right to any interference protection in any areas outside the Charleston, South Carolina MSA and is conditioned upon coordinating with the current and future co-channel licensees in the areas outside the MSA. The licensee herein is put on notice that in the event current or future MSA/RSA licensees encounter interference from any extensions, the licensee herein will have to change frequencies in those cells or pull back its 39 dBu contours to eliminate any interference due to an extension.

9. IT IS FURTHER ORDERED that the petition to deny filed by Palmetto Rural Telephone Cooperative, Inc. is DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Gregory J. Vogt
Chief, Mobile Services Division
Common Carrier Bureau

FOOTNOTES

[1] On October 26, 1990, the wireline construction permit for the Hampton RSA was issued to South Carolina No. 8 Cellular General Partnership. Palmetto has an ownership interest in one of the partners of South Carolina No. 8.

[2] Metronet also argued that Palmetto was just an applicant in the RSA and thus lacked standing to file a petition to deny. The Commission does not normally grant standing to mere applicants. *See Airsignal International, Inc.*, 56 F.C.C. 2d 819 (Rev. Bd. 1975); *Contel Cellular, Inc.*, 2 FCC Rcd 4773 (Com. Car. Bur. 1987); *Metro Mobile CTS of Charlotte, Inc.*, 2 FCC Rcd 3929 (Mob. Serv. Div. 1987). However, though Palmetto was only an applicant when the petition was filed, the Hampton wireline permit has since been issued, and Palmetto has an ownership interest in the permittee. *See* note 1, *supra*. We will therefore consider the petition and address the issues raised.

[3] Section 22.903(a) states in pertinent part:

> The Cellular Geographic Service Area (CGSA) of the cellular system shall be defined by the applicant as the area intended to be served. No CGSA, which includes areas within a Metropolitan Statistical Area (MSA), or in New England, a New England County Metropolitan Area (NECMA), as modified in paragraph (e), of this section, below, may extend beyond the boundaries of the MSA or NECMA, except where any such extensions are *de minimis* and do not include areas within another central MSA or NECMA.

[4] *Procedures Update*, 52 Rad. Reg. 2d at 726.

[5] *See, e.g, Houston Cellular Telephone Company*, 5 FCC Rcd 7140 (Mob. Serv. Div. 1990) (19.8 percent cell extension is *de minimis); Rhys G. Mussman*, 3 FCC Rcd 6808, 6811 (Com. Car. Bur. 1988) (19 percent cell extension is *deminimis)*.

[6] Palmetto failed to substantiate its claim that there are a large number of potential customers in the area covered by the extension.

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

Cincinnati Bell
Telephone Company

Petition for Waiver of Part 69 of
the Commission's Rules for Electronic
Directory Assistance Service

ORDER

Adopted: February 11, 1991; Released: February 19, 1991

By the Chief, Common Carrier Bureau:

1. On September 28, 1990, Cincinnati Bell Telephone Company (CBT) filed a petition for waiver of Part 69 of the Commission's Rules to establish a new Switched Access rate subelement in the Information element category for a proposed Electronic White Pages (EWP) service, which it plans to call "ELI[sm]" service.[1] This service would permit CBT customers to access electronic directory listings without operator interaction or reference to printed white pages. CBT Petition at 1. CBT's EWP service would provide access to a database which permits customers to obtain telephone numbers and addresses of telephone subscribers in CBT's service area by entering their names. CBT maintains that the information available through EWP is the same as that available through operator directory assistance. *Id.* at 2-3. CBT claims its service would not include "reverse search" capabilities, *i.e.*, the ability to find a subscriber's name by entering the associated telephone number. *Id.* at 3. Finally, CBT argues that since the Bureau granted waivers to Southwestern Bell and US West for their Electronic Directory Assistence (EDA) services, we should grant future waivers for the provision of similar EDA services without establishing a pleading cycle. *Id.* at 4-5. *See also* Southwestern Bell Telephone Company, Petition for Waiver of Section 69.4(b) of the Commission's Rules, Revisions to Tariff F.C.C. No. 68, 5 FCC Rcd 3792 (Com.Car.Bur. 1990); US West Communications, Inc., Petition for Waiver of Part 69 of the Commission's Rules To Provide Electronic White Pages Service, 5 FCC Rcd 5526 (Com.Car.Bur. 1990).

2. MCI Telecommunications Corporation (MCI) supports CBT's waiver petition. MCI Comments at 1-2. MCI requests, however, that CBT provide adequate cost support at the time it tariffs this service. *Id.* at 2-3. MCI also says that none of the costs incurred when CBT uses its ELI[sm] database for its own purposes should be recovered from MCI. *Id.* at 3.

3. Section 1.3 of the Commission's Rules, 47 C.F.R. § 1.3, provides that waiver petitions may be granted "if good cause therefor is shown." With respect to Southwestern Bell's EDA service, we found that: |a|lthough electronic directory assistance serves the same function as operator directory assistance, the costs of this service will differ from those associated with the more traditional directory assistance service. A distinct charge to recover the unique costs of electronic directory assistance from only the users of that service would, therefore, be more consistent with the Commission's cost-causation policies. Southwestern Bell Telephone Company, Petition for Waiver of Part 69 of the Commission's Rules, Revisions to Tariff F.C.C. No. 68, 5 FCC Rcd 3792 (Com.Car.Bur. 1990).

4. CBT's ELI[sm] service does not differ in any material respect from Southwestern Bell's EDA service. Thus, good cause exists to permit CBT to establish a separate rate subelement in the Information element of Switched Access for its ELI[sm] service and, accordingly, we will grant the waiver.

5. Accordingly, IT IS ORDERED that the petition for waiver of Part 69 of the Commission's Rules filed by Cincinnati Bell Telephone Company IS GRANTED.

FEDERAL COMMUNICATIONS COMMISSION

Richard M. Firestone
Chief, Common Carrier Bureau

FOOTNOTE

[1] CBT indicates that "ELI[sm]" is the name it will give to its EWP service for marketing purposes, rather than an acronym for another term. CBT Petition at 1.

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

Bell Atlantic
Telephone Companies

Petition for Waiver of Part 69 of
the Commission's Rules for Electronic
Directory Assistance Service

ORDER

Adopted: February 11, 1991; Released: February 11, 1991

By the Chief, Common Carrier Bureau:

1. On December 11, 1990, the Bell Atlantic telephone companies[1] filed a petition for waiver of Part 69 of the Commission's Rules, 47 C.F.R. Part 69, to permit Bell Atlantic to establish new rate elements to recover the costs of providing a new electronic directory assistance access service, called "Electronic ReQuest." Bell Atlantic Petition at 1. This service would permit Bell Atlantic customers to access electronic directory listings without operator interaction or reference to printed white pages. Bell Atlantic's Electronic ReQuest service would provide access to a database which customers can use to obtain telephone numbers and addresses of telephone subscribers in Bell Atlantic's service areas by entering their names. Thus, the information available through Electronic ReQuest is the same as that available through operator directory assistance.

Bell Atlantic states that the costs of providing this service differ from traditional directory assistance service, and maintains that a distinct set of rates for Electronic ReQuest will permit it to recover the unique costs of the service directly from its users. *Id.* at 2. Bell Atlantic specifically states that its Electronic ReQuest service will not have "reverse search" capability, *i.e.*, this service cannot be used to determine the name and address of an individual by entering his or her telephone number. *Id.* at 2. No oppositions or comments were filed in response to Bell Atlantic's waiver petition.

2. Section 1.3 of the Commission's Rules, 47 C.F.R. § 1.3, provides that waiver petitions may be granted if "good cause therefor is shown." We have previously considered an almost identical waiver request from Southwestern Bell Telephone Company (SWB). We granted SWB's request because we found that "[a]lthough electronic directory assistance serves the same function as operator directory assistance, the costs of this service will differ from those associated with the more traditional directory assistance service. A distinct charge to recover the unique costs of electronic directory assistance from only the users of that service would, therefore, be more consistent with the Commission's cost-causation policies." *Southwestern Bell Telephone Company*, 5 FCC Rcd 3792 (Com.Car.Bur. 1990). There is no material difference between Southwestern Bell's electronic directory assistance service and Bell Atlantic's Electronic ReQuest service. Thus, good cause exists to permit Bell Atlantic to establish a separate rate subelement for Electronic ReQuest service and, therefore, we grant the waiver.

3. Accordingly, IT IS ORDERED that the petition for waiver of Part 69 of the Commission's Rules, 47 C.F.R. Part 69, filed by the Bell Atlantic telephone companies IS GRANTED.

FEDERAL COMMUNICATIONS COMMISSION

Richard M. Firestone
Chief, Common Carrier Bureau

FOOTNOTE

[1] The Bell Atlantic telephone companies are Bell Telephone Company of Pennsylvania, Diamond State Telephone Company, the four Chesapeake and Potomac Telephone Companies, and New Jersey Bell Telephone Company.

Before the
Federal Communications Commission
Washington, D.C. 20554

GEN. Docket No. 90-216

In the Matter of

Amending Sections 21.701 and 94.65 of the Commission's Rules to Rechannel the 10550 - 10680 MHz Band — RM-6180

REPORT AND ORDER

Adopted: February 4, 1991; Released: February 19, 1991

By the Commission:

I. INTRODUCTION

1. By a *Notice of Proposed Rule Making* (*Notice*) [1] in the above-captioned docket, we proposed to amend Section 21.701(d), (Domestic Public Fixed Radio Services) and Section 94.65(i) (Private Operational-Fixed Microwave Radio Service) of the Commission's Rules, 47 C.F.R. §§ 21.701(d) and 94.65(i), to provide for four 3.75 MHz bandwidth channel pairs in the 10550-10680 MHz (10.5 GHz) band.[2] This action was taken in response to the Petition for Rule Making filed by the Harris Corporation-Farinon Division ("Harris"), a manufacturer of microwave and multiplex systems. In its Petition, Harris argued that the Commission should provide additional channel bandwidth options for users of this band. Specifically, Harris argued that overlaying or "stacking" of the existing 1.25 MHz and 2.50 MHz bandwidth channels would serve the public interest by promoting more efficient use of the radio spectrum. To support its channelization plan, Harris observed that the Commission has approved the "stacking" concept in other frequency bands, *e.g.*, 952-960 MHz, 1850-1990 MHz, 6525-6875 MHz, and 17700-19700 MHz bands.

2. In the *Notice*, we tentatively concluded that the flexible channeling plan proposed by Harris would increase the utilization of the 10.5 GHz band both in terms of the number of potential users and types of transmissions. We further tentatively concluded that the existing microwave frequency coordination procedures, set forth in Sections 21.100(d) and 94.63(a) of the Commission's Rules, would provide adequate protection to existing users of the 10.5 GHz band. [3] However, we invited interested parties to identify specifically any changes in frequency coordination procedures that may be necessary to adequately protect existing 10.5 GHz band users.

II. COMMENTS AND DISCUSSION

3. Eight parties filed comments in response to the *Notice*;[4] two parties filed reply comments.[5] All comments and reply comments uniformly support the Commission's proposal to rechannel the 10.5 GHz band. The commenters believe that the proposed rechannelization plan is both spectrum efficient and cost efficient, and provides for greater channel flexibility for users of the 10.5 GHz band.[6] Likewise, all commenters agree that existing frequency coordination procedures will adequately protect existing 10.5 GHz users.

4. In their comments, PacTel Cellular ("PacTel") and Rockwell International Corporation ("Rockwell") raise two issues not separately discussed in the *Notice*. PacTel argues for further rechannelization of the 10550-10680 MHz band, recommending the "stacking" of the existing 1.25 MHz channels to create additional 2.50 MHz channels in the band. Rockwell asks the Commission to (1) impose a spectral efficiency of two bits/Hz for systems requiring the 3.75 MHz channels and (2) require a minimum path length of 5 Km in this band.[7] Harris, in reply comments, supports PacTel's proposal for additional 2.50 MHz bandwidth channels and supports Rockwell's request for a two bits/Hz spectral efficiency, stating that such spectral efficiency standard would prevent the use of 3.75 MHz channels for capacities that can be accommodated in narrower bandwidths. However, Harris differs with Rockwell on the question of the minimum path length standard for the band. Rather than a fixed distance standard, Harris prefers the minimum path length formula that is outlined in Section 94.79(b) of the Rules, which embraces the concept of Equivalent Isotropic Radiated Power (EIRP). Additionally, Harris believes that adoption of such a formula would lead toward uniformity between common carriers and private carriers that are now sharing co-equally the 10.5 GHz band.[8]

5. Under Section 303(g) of the Communications Act of 1934, 47 U.S.C. § 303(g), the Commission is charged with assuring the ". . . larger and more effective use of radio...." Adopting the proposal to add the option of 3.75 MHz bandwidth channel pairs furthers that objective. As we pointed out in the *Notice*, the 3.75 MHz bandwidth channel pairs, in addition to attracting new users to the slow-developing, lightly used 10.5 GHz band, would accord relief to the users of the congested narrowband 2 GHz spectrum. Additionally, the 3.75 MHz bandwidth would provide an alternative capacity of up to 8 T-1 circuits (192 voice circuits) for those users facing demands for larger circuit capacity and varying bandwidth options. As presently channeled, the 10.5 GHz band provides a maximum of only 4 T-1 circuits (96 voice circuits), at 2.50 MHz bandwidth. Moreover, the existing 1.25 MHz and 2.50 MHz bandwidth allocations will not be disturbed by the new 3.75 MHz bandwidth allocation. We therefore find that the proposed rechannelization plan results in more productive use of the 10.5 GHz radio spectrum, thus serving the public interest. We, therefore, adopt the proposal to rechannel the 10550-10680 MHz band by including therein four 3.75 MHz bandwidth channels.

6. Further, the reasons for including the four 3.75 MHz bandwidth channels also support adopting Pactel's proposal to permit stacking of 1.25 MHz channels to realize additional 2.5 MHz channels. Conforming rules are included in Appendix A. Different considerations underlay Rockwell's petition relating to spectral efficiency and path length, however. As a consequence, we conclude that

interested parties should be afforded a further opportunity to comment. We intend to address these matters in a separate Rule Making proceeding.

FINAL REGULATORY FLEXIBILITY ANALYSIS

7. Pursuant to the Regulatory Flexibility Act of 1980, the Commission's final analysis with regard to the *Report and Order* is as follows:

I. Need and purpose of this action:

The regulations effected by this *Report and Order* are required to increase the efficient utilization of the spectrum.

II. Summary of issues raised by the public comments in response to the Initial Regulatory Flexibility Analysis:

No additional comments were filed in response to the Initial Regulatory Flexibility Analysis.

III. Significant alternatives considered and rejected:

There were no alternatives presented in this proceeding. The rules adopted will increase channel capacity and decrease the likeihood of harmful interference in the 10.5 GHz band.

III. ORDERING CLAUSES

8. Authority for this Rule Making is contained in Sections 1, 4(i), 303(e), (f), and (r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 303(e), 303(f), and 303(r).

9. Accordingly, IT IS ORDERED, that Sections 21.701(d) and 94.65(i) of the Commission's Rules and Regulations, 47 C.F.R. §§ 21.701(d), 94.65(i), be amended as specified in Appendix A below, effective thirty days from publication in the Federal Register.

10. IT IS FURTHER ORDERED, that Gen. Docket No. 90-216 IS TERMINATED.

FEDERAL COMMUNICATIONS COMMISSION

Donna R. Searcy
Secretary

APPENDIX A

Parts 21 and 94 of the Commission's Rules and Regulations (Chapter 1 of Title 47 of the Code of Federal Regulations) are amended as follows:

Part 21 - Domestic Public Fixed Radio Services

1. The authority citation for Part 21 continues to read as follows:

Authority: 47 U.S.C. 154 and 303.

2. Section 21.701(d) is amended by adding new paragraphs (3) and (4) to read as follows:

Section 21.701 Frequencies

*****

(d) ***

(3) 3.75 MHz authorized bandwidth channels, 65 MHz separation:

Transmit (receive) (MHz)	Receive (transmit) (MHz)
10551.875	10616.875
10555.625	10620.525
10559.375	10624.375
10563.125	10628.125

(4) 2.50 MHz authorized bandwidth channels, 65 MHz separation:

Transmit (receive)(MHz)	Receive (transmit) MHz
10561.250	10626.250
10563.750	10628.750

*****

Part 94 - Private Operational Fixed Microwave Service

1. The authority citation for Part 94 continues to read as follows:

Authority: 47 U.S.C. 154 and 303.

2. Section 94.65(i) is amended by adding new paragraphs (3) and (4) to read as follows:

Section 94.65 Frequencies

*****

(i)***

(3) 3.75 MHz authorized bandwidth channels, 65 MHz separation:

Transmit (receive) (MHz)	Receive (transmit) (MHz)
10551.875	10616.875
10555.625	10620.525
10559.375	10624.375
10563.125	10628.125

(4) 2.50 MHz authorized bandwidth channels, 65 MHz separation:

Transmit (receive) (MHz)	Receive (transmit) (MHz)
10561.250	10626.250
10563.750	10628.750

* * * * *

APPENDIX B

List of parties submitting *Comments* in response to the Notice of Proposed Rule Making (RM-6180):

Aerospace and Flight Test Radio Coordinating Council
Association of American Railroads
Digital Microwave Corporation
Harris Corporation-Farinon Division

PacTel Cellular
Rockwell International Corporation
The American Petroleum Institute
United States Cellular Corporation

List of parties submitting *Reply Comments* to the Notice of Proposed Rule Making (RM-6180):

Harris Corporation-Farinon Division
Telocator

FOOTNOTES

[1] *See* 5 FCC Rcd 2732 (1990).

[2] This frequency band is used for the interconnection of Digital Termination Stations (DTS) in the Digital Electronic Message Service (DEMS). DEMS is a common carrier radio service providing end-to-end transmission of digitally encoded information. A DEMS network consists of one or more DTS for local distribution, interconnected by some form of inter-city digital transmission such as terrestrial microwave or satellite links.

[3] *See Notice* at 2732.

[4] *See* Appendix B, attached hereto.

[5] *See* Appendix B, attached hereto.

[6] The American Petroleum Institute ("API"), one of eight commenters on the *Notice*, while fully supporting the Commission's proposal to rechannelize the band, cautions that adding flexibility --- larger bandwidths --- to a given band is not always prudent because larger bandwidths could compromise users of smaller bandwidths in the same band. *See* API's Comments at footnote 3.

[7] *See* Comments by PacTel and Rockwell.

[8] *See* Harris Reply Comments at paragraphs 4 and 5.

Before the
Federal Communications Commission
Washington, D.C. 20554

PR Docket No. 90-34

In the Matter of

Amendment of Part 90 of the
Commission's Rules to Permit
the Short-Spacing of Specialized
Mobile Radio Systems Upon
Concurrence from Co-Channel
Licensees

FURTHER NOTICE OF PROPOSED RULE MAKING

Adopted: February 5, 1991; Released: February 20, 1991

By the Commission:

I. INTRODUCTION

1. Our Rules provide that Specialized Mobile Radio (SMR) systems are afforded interference protection based on fixed mileage separations from co-channel systems. 47 C.F.R. § 90.621(b). The ordinary separation between co-channel systems is 70 miles except on certain mountain peaks in the States of California and Washington, where co-channel stations must be separated by 105 miles. *Id.* Many SMR operators find it technically possible and mutually desirable to locate their systems closer together. We permit such "short-spacing" on a waiver basis where there is mutual agreement among co-channel licensees. We also permit short-spacing on a waiver basis if a technical showing of sufficient interference protection can be made, even in the absence of mutual agreement among co-channel licensees. In the *Notice of Proposed Rule Making* (*Notice*) [1] in this proceeding, we proposed to permit SMR systems to operate at reduced mileage separations without requiring a waiver if all affected co-channel licensees concur to the short-spacing. We also stated our intent to continue to permit short-spacing based on a technical showing of sufficient (*i.e.*, equivalent) interference protection, even in the absence of such concurrence. In this *Further Notice of Proposed Rule Making*, we solicit further comment only on amending our rules to permit short-spacing requests based on technical showings without requiring a waiver.

II. BACKGROUND

2. The current mileage separation standards are based on the separation typically needed between co-channel stations to provide a reasonable degree of interference protection. When two typical SMR stations are at least 70 miles apart (or 105 miles for the California and Washington sites), it is generally true that the 30 dBu contour of the interfering station does not overlap the 40 dBu contour of the desired station. *See* Second Report and Order, Docket No. 18262, 46 FCC 2d 752, 774-75 (1974) (subsequent history omitted).

3. Expressing the 30/40 dBu standard as a mileage separation generally assures a reasonably good quality of service, promotes spectrum efficiency through frequency reuse, and simplifies our evaluation of SMR license applications. Thus, the primary way in which we assign SMR stations is by application of the co-channel mileage standards. We recognize, however, that departures from these mileage criteria are warranted under two circumstances, both of which require a waiver of Section 90.621(b) of our Rules. First, the applicant can obtain the consent of all co-channel licensees within the applicable mileage separation. If the concurring licensees are constructed and operational, we regularly permit consenting stations to short-space with one another.[2] Alternatively, the applicant can, without the consent of co-channel licensees, submit a technical showing demonstrating that the short-spacing will provide protection to existing stations equivalent to that provided by the mileage standards. Generally, such applications show that the proposed facility will protect the existing station's 40 dBu contour, the standard on which the mileage separation criteria were developed. Under these circumstances, we permit such short-spaced stations because they promote more efficient use of the spectrum while providing sufficient protection to existing co-channel licensees.

4. In February of 1990, we proposed to incorporate our consensual short-spacing requirements into a rule, thereby eliminating the need to process such short-spacing requests by waiver. [3] We further stated that we would continue to process on a case-by-case basis short-spaced applications based on technical showings rather than on the consent of constructed co-channel licensees. *Notice* at para. 7. The *Notice* did not, however, discuss specifically whether we would continue to require waivers for short-spaced applications that are based on technical showings.

III. COMMENTS/DISCUSSION

5. Two commenters to the *Notice* responded to the issue of short-spacing requests based on technical showings of non-interference. ASNA believes that it is easy to obtain concurrences from licensees who will not be adversely affected by a proposed system and therefore concludes that short-spacing requests without concurrences are those that are likely to result in interference. Comments of ASNA at 7-9. Accordingly, ASNA prefers that the Commission not accept short-spacing requests without the concurrence of affected parties. Comments of ASNA at 6. ASNA further states, however, that if we do accept these technical showings, we should do so on a waiver, not rule, basis and should, in either case, establish standards under which they would be processed. Comments of ASNA at 9. Notably, ASNA states that it would be appropriate to grant such applications only if "the applicant presents incontrovertible evidence of non-interference, and the existing licensee has no technical or business basis for objecting to the proposed co-channel operation." *Id.* RAM disagrees on the need to establish standards for technical showings and supports our current case-by-case waiver analysis. Reply Comments of RAM at 3-4.

6. Under existing procedures, we accept short-spaced applications that rely on technical showings and we examine such applications on a case-by-case waiver basis. *See Notice* at para. 7. Over the past four years our licensing staff has granted approximately 40 short-spaced SMR applications based on technical showings. Typically, these

applicants demonstrate that the proposed facilities provide co-channel stations protection equivalent to that provided by the 70 mile separation standard. Because the 70 mile separation is intended only to prevent predicted overlap of the existing station's 40 dBu service contour and the new station's 30 dBu contour,[4] we have granted applications showing that the proposed station's calculated 30 dBu contour does not overlap the 40 dBu contour of any existing co-channel stations. Grant of such applications on a case-by-case basis is fully consistent with the underlying purpose of Section 90.621 because the engineered-in station will promote spectrum efficiency while providing a reasonable degree of protection and quality of service.

7. Our analysis of this issue leads us to the tentative conclusion that the public would benefit if we were to codify our current practices regarding these technical showings and eliminate the need for these applications to be accompanied by waiver requests. Because the issue was only tangentially addressed in the *Notice*, however, we find it appropriate to solicit additional comments. We do not concur with the statement by ASNA that facilities granted on the basis of technical showings are likely to cause high levels of interference. As stated earlier, we have granted over 40 such applications without any apparent interference. It is our view that the availability of this option provides a safety valve if existing co-channel licensees decline to concur with a legitimate short-space proposal. We therefore propose to codify our current policy of accepting short-spacing requests based on technical studies. *See* Appendix A for the proposed rule changes.[5]

8. ASNA suggests that processing short-spaced applications accompanied by a technical showing would be a burden on FCC staff resources. Comments of ASNA at 8. Clearly, reviewing technical studies is more time-consuming than processing applications on the basis of minimum mileage separation criteria. One of our primary goals, however, is to maximize the efficient utilization of the spectrum. Allowing applicants to engineer-in facilities where spectrum is in short supply would help accomplish this goal and is, therefore, in the public interest. We assume that most applicants will continue to prefer to submit short-spaced applications containing the concurrence of co-channel licensees rather than technical studies because of the additional processing time that will be required by the latter. This fact may minimize the impact on our licensing staff. In any event, merely codifying our existing procedures should not necessarily increase the number of applications based on technical showings over the number that we would receive under our current waiver policies.

9. Although we are proposing to remove these applications from the waiver process, we are not proposing to reduce the level of review that they receive and would continue to provide the same high level of technical scrutiny that they currently receive as waiver applications. While we are confident that our review alone will be adequate to ensure that the rights of existing licensees are protected, we seek comments on whether additional safeguards should be adopted. We could, for example, require that licenses granted on the basis of technical showings be conditioned on a no-interference standard. In other words, such licensees would be required to remedy and resolve any resultant interference to existing co-channel licensees. We could also require applicants submitting short-spaced applications to serve copies on all affected co-channel licensees and provide those affected licensees the opportunity to comment specifically on the technical showings. We seek comments on these two approaches and will entertain, and consider adopting, other suggestions submitted by the commenters that seek to protect the rights of existing co-channel licensees.

10. We concur with ASNA's suggestion that applicants should be provided more guidance about the information to be submitted as part of a technical showing. We propose that technical showings justifying short-spaced facilities should include the following information: (1) the identity of all co-channel stations considered within the mileage separation; (2) diagrams showing the 30 dBu contour of the proposed station and the 40 dBu contours of the existing stations[6]; (3) specification of the interference criteria and system parameters used in the interference study; and (4) a description of the propagation models, any engineering assumptions made, and any special terrain features considered in computing the interference impact. It is our intent to propose general criteria for these showings so that applicants may have the flexibility to consider unique terrain or propagation conditions. We will, however, consider any comments that recommend additional components or standards to the technical showings. Also, we propose to reserve the right to request any additional information from the applicant. We seek comment on these criteria and invite comments on any other relevant considerations.

IV. INITIAL REGULATORY FLEXIBILITY ANALYSIS

Reason For Action

11. The Commission is proposing these rule changes to encourage more effective use of the spectrum. This action will foster spectrum efficiency by allowing the assignment of stations that would not be permitted under a strict application of the minimum mileage separation standard.

Legal Basis

12. The proposed amendments to the Commission's Rules, as set forth in the Appendix below, are issued under the authority contained in Sections 4(i), 303(g), 303(r), and 331(a) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(g), 303(r) and 332(a).

Reporting, recordkeeping and other compliance requirements

13. Applicants that seek short-spaced assignments must submit technical data justifying their request. This collection of information requirement has been submitted to the Office of Management and Budget (OMB) for review under Section 3504(h) of the Paperwork Reduction Act.

Federal rules which overlap, duplicate, or conflict with this rule

14. None.

Description, potential impact, and number of small entities affected

15. Small businesses applying for SMR licenses could be positively affected by this proposal because they will be able to engineer-in a station that otherwise would not be granted absent a waiver.

Any significant alternatives minimizing the impact on small entities and consistent with the stated objectives

16. Aside from maintaining the *status quo*, we do not know of significant alternatives other than those considered in this *Further Notice of Proposed Rule Making*.

V. PAPERWORK REDUCTION ACT STATEMENT

17. The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to impose a new or modified information collection requirement on the public. Implementation of any new or modified requirement will be subject to approval by the Office of Management and Budget as prescribed by the Act.

VI. PROCEDURAL MATTERS

18. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* presentations are permitted except during the Sunshine Agenda period. *See generally* 47 C.F.R. § 1.1206(a). The Sunshine Agenda period is the period of time which commences with the release of a public notice that a matter has been placed on the Sunshine Agenda and terminates when the Commission (1) releases the text of a decision or order in the matter; (2) issues a public notice stating that the matter has been deleted from the Sunshine Agenda; or (3) issues a public notice stating that the matter has been returned to the staff for further consideration, whichever occurs first. 47 C.F.R. § 1.1202(f). During the Sunshine Agenda period, no presentations, *ex parte* or otherwise, are permitted unless specifically requested by Commission or staff for the clarification or adduction of evidence or the resolution of issues in the proceeding. 47 C.F.R. § 1.1203.

19. In general, an *ex parte* presentation is any presentation directed to the merits or outcome of the proceeding made to decision-making personnel which (1) if written, is not served on the parties to the proceeding, or (2), if oral, is made without advance notice to the parties to the proceeding and without opportunity for them to be present. 47 C.F.R. § 1.1202(b). Any person who submits a written *ex parte* presentation must provide on the same day it is submitted a copy of same to the Commission's Secretary for inclusion to the public record. The presentation (as well as any transmittal letter) must clearly indicate on its face the docket number of the particular proceeding(s) to which it relates and the fact that two copies of it have been submitted to the Secretary, and must be labeled or captioned as an ex parte presentation.

20. Any person who in making an oral *ex parte* presentation presents data or arguments not already reflected in that person's written comments, memoranda, or other previous filings in that proceeding shall provide on the day of the oral presentation an original and one copy of a written memorandum to the Secretary (with a copy to the Commissioner or staff member involved) which summarizes the data and arguments. The memorandum (as well as any transmittal letter) must clearly indicate on its face the docket number of the particular proceeding and the fact that an original and one copy of it have been submitted to the Secretary, and must be labeled or captioned as an ex parte presentation. 47 C.F.R. § 1.1206.

21. Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's Rules, 47 C.F.R. §§ 1.415 and 1.419, interested persons may file comments on or before **March 19, 1991** and reply comments on or before **April 3, 1991.** All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that the fact of the Commission's reliance on such information is noted in the *Report and Order*.

22. To file formally in this proceeding, participants must file an original and four copies of all comments, reply comments, and supporting comments. If participants want each Commissioner to receive a personal copy of their comments, an original plus nine copies must be filed. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the Dockets Reference Room (Room 239) of the Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

FEDERAL COMMUNICATIONS COMMISSION

Donna R. Searcy
Secretary

APPENDIX

47 C.F.R. Part 90 of the Commission's Rules is proposed to be amended as follows:

1. The authority citation for Part 90 would continue to read as follows:

AUTHORITY: Sections 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.

2. 47 C.F.R. § 90.621 is proposed to be amended by adding new paragraphs (b)(4) and (b)(5) to read as follows:

§ 90.621 Selection and assignment of frequencies.

* * * * *

(b) * * *

(4) The separation between co-channel systems may be less than the separations defined above if the applicant submits with its application letters of concurrence indicating that the applicant and each co-channel licensee within

the specified mileage separation agree to accept any interference resulting from the reduced separation between their systems. Each letter from a co-channel licensee must certify that the system of the concurring licensee is constructed and fully operational.

(5) The separation between co-channel systems may be less than the separations defined above if the applicant submits a frequency engineering analysis showing interference protection to co-channel stations equivalent to that provided by the mileage separation. At a minimum, such showings must contain the identity of all co-channel stations considered within the mileage separation; diagrams showing the 30 dBu contour of the proposed station and the 40 dBu contours of the existing stations; specification of the interference criteria and system parameters used in the interference study; and a description of the propagation models, any engineering assumptions made, and any special terrain features considered in computing the interference impact.

* * * * *

FOOTNOTES

[1] Notice of Proposed Rule Making, Short-Spacing of SMR Systems, PR Docket 90-34, 5 FCC Rcd 1135 (1990).

[2] *See* Public Notice, Clarification and Simplification of Procedures for 800 MHz Systems in the Private Land Mobile Services, Mimeo No. 160 (October 14, 1986).

[3] *See* note 1, *supra*.

[4] *See* Second Report and Order, Docket No. 18262, 46 FCC 2d 752, 774 (1974).

[5] The proposal made in this Further Notice would be added as new paragraph (b)(5) to 47 C.F.R. § 90.621. The appendix also shows the original proposal made in this proceeding, new paragraph (b)(4) to 47 C.F.R. § 90.621.

[6] ASNA is particularly concerned that we require applicants determining these contours to consider terrain elevations along specific radials rather than only the composite average terrain. Comments of ASNA at 9. We agree that this is the preferred method of analysis and seek comments as to whether it is necessary to specify this approach in the Rules.

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

AT&T Communications — Transmittal Nos. 2725 and 2868

Revisions to Tariff F.C.C. Nos. 1 and 2

ORDER

Adopted: February 12, 1991; Released: February 13, 1991

By the Chief, Common Carrier Bureau:

1. On November 16, 1990, AT&T Communications (AT&T) filed Transmittal No. 2725 to introduce new provisions to its Multi-Location Calling Plan (MLCP) offering. MLCP is an alternative pricing plan under which the customer pays various monthly charges depending on the number of locations or equivalent locations as specified in its service agreement with AT&T. On December 3, 1990, Mid-Com Consultants, Inc. (Mid-Com) filed a petition to reject Transmittal 2725, to which AT&T replied on December 21, 1990.[1] On January 28, 1991 AT&T filed Transmittal No. 2868, which further revised its MLCP offering by changes that affected several pending transmittals. The captioned transmittals, as revised, are scheduled to become effective on February 14, 1991.

2. AT&T's MLCP offering gives the customer the option of paying one monthly charge per plan in exchange for receiving MEGACOM Service, PRO WATS III, PRO WATS, or WATS (provided under AT&T Tariff F.C.C. No. 2) at all designated locations at rates discounted from those under which these services are normally provided. By the instant transmittal, as revised, AT&T bifurcates its MLCP into "Plan A," essentially the proposal that became effective under Transmittal Nos. 2751 and 2719,[2] and "Plan B," a discount plan based upon a term option of 18 months applicable only to PRO WATS and PRO WATS III taken under the MLCP.

3. In its petition against Transmittal 2725, Mid-Com states that it is a traffic "aggregator" who benefits from AT&T's current tariff provisions. Mid-Com maintains here, as it did against AT&T's prior revisions proposed in Transmittal Nos. 2571 and 2719, that if the revisions in Transmittal 2725 become effective, then an MLCP customer of AT&T will not be able to switch to a Mid-Com-sponsored AT&T Software Defined Network aggregation plan without incurring a penalty in the form of the termination liability. That penalty would negate any benefit derived from the discount, according to Mid-Com, and discriminates unreasonably between customers of AT&T who purchase Mid-Com's services and Mid-Com customers who were not AT&T customers at the outset. Mid-Com Petition at 2-3.

4. On January 28, 1991 AT&T filed Transmittal 2868 to revise Transmittal 2725. These revisions withdraw two of the new requirements for avoiding termination liability when subscribing to a new service plan: that the same customer subscribe to both plans, and that the same customer initiate both plans. Also, AT&T restructured the original language regarding MLCP customers.

5. The revisions filed under Transmittal 2868 moot mid-Com's contentions. In these circumstances we need not consider AT&T's reply.

6. The Common Carrier Bureau has reviewed AT&T Transmittal Nos. 2725 and 2868, the petition filed by Mid-Com, and AT&T's reply. We conclude that no compelling argument has been presented that these tariffs as revised are so patently unlawful as to warrant rejection, or that an investigation is warranted at this time.

7. Therefore, IT IS ORDERED that the petition to reject or suspend AT&T Communications Tariff F.C.C. Nos. 1 and 2, Transmittal 2725, filed by Mid-Com Consultants, Inc., IS DENIED.

8. IT IS FURTHER ORDERED that the motion to accept a late-filed reply pleading filed by American Telephone and Telegraph Company regarding AT&T Transmittal No. 2725 IS GRANTED.

FEDERAL COMMUNICATIONS COMMISSION

Richard Firestone
Chief, Common Carrier Bureau

FOOTNOTES

[1] AT&T filed its reply one week after the date it was due to be filed, accompanied by a motion for leave to file a late reply. AT&T stated that it had not received a copy of the petition and learned of it for the first time on January 19, 1991, from Commission staff. In these circumstances we grant leave for the late filing of AT&T's reply.

[2] *See* Order, DA 91-134, Jan. 31, 1991.

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

ALLNET COMMUNICATION SERVICES, INC.,
Complainant,

v.

ILLINOIS BELL TELEPHONE COMPANY,	File No. E-91-30
INDIANA BELL TELEPHONE COMPANY,	File No. E-91-31
MICHIGAN BELL TELEPHONE COMPANY,	File No. E-91-32
OHIO BELL TELEPHONE COMPANY and	File No. E-91-33
WISCONSIN BELL, INC.,	File No. E-91-34

Defendants.

ORDER

Adopted: February 8, 1991; Released: February 20, 1991

By the Chief, Enforcement Division, Common Carrier Bureau:

1. On January 25, 1991, the Enforcement Division, Common Carrier Bureau, adopted an Order holding in abeyance the captioned cases. *Order*, DA 91-81 (released February 5, 1991). The captioned proceedings were held in abeyance pending further Commission consideration of certain issues remanded by the U.S. Court of Appeals for the District of Columbia Circuit.[1]

2. The captioned proceedings raise issues in addition to those directly affected by the Court's remand. Therefore, we find it to have been premature to defer all further action in these proceedings. Accordingly, the *Order* to hold the captioned proceedings in abeyance IS VACATED.

3. A conference will be scheduled following release of this *Order* to establish a schedule for further proceedings as necessary.

FEDERAL COMMUNICATIONS COMMISSION

Mary Beth Richards
Chief, Enforcement Division
Common Carrier Bureau

FOOTNOTE

[1] *See Illinois Bell Tel. Co. v. FCC*, No. 88-1175 (D.C. Cir. August 17, 1990).

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

TELESPHERE NETWORK, INC.,
Complainant,

v.

NEW ENGLAND TELEPHONE AND TELEGRAPH COMPANY and	File No. E-90-358
NEW YORK TELEPHONE COMPANY,	File No. E-90-359

Defendants.

ORDER

Adopted: February 8, 1991; Released: February 20, 1991

By the Chief, Enforcement Division, Common Carrier Bureau:

1. On January 28, 1991, the Enforcement Division, Common Carrier Bureau, adopted an Order holding in abeyance the captioned cases. *Order*, DA 91-109 (released February 7, 1991). The captioned proceedings were held in abeyance pending further Commission consideration of certain issues remanded by the U.S. Court of Appeals for the District of Columbia Circuit.[1]

2. The captioned proceedings raise issues in addition to those directly affected by the Court's remand. Therefore, we find it to have been premature to defer all further action in these proceedings. Accordingly, the *Order* to hold the captioned proceedings in abeyance IS VACATED.

3. A conference will be scheduled following release of this *Order* to establish a schedule for further proceedings as necessary.

FEDERAL COMMUNICATIONS COMMISSION

Mary Beth Richards
Chief, Enforcement Division
Common Carrier Bureau

FOOTNOTE

[1] *See Illinois Bell Tel. Co. v. FCC*, No. 88-1175 (D.C. Cir. August 17, 1990).

FEDERAL COMMUNICATIONS COMMISSION

Before the
Federal Communications Commission
Washington, D.C. 20554

Gregory A. Weiss
Deputy Chief, Enforcement Division
Common Carrier Bureau

In the Matter of

THE UNITED STATES ARMY
CORPS OF ENGINEERS,
SEATTLE DISTRICT,
Complainant,

v. File No. E-91-29

NORTHWEST MICROWAVE
INCORPORATED,
a.k.a. NORTHWEST
MICROWAVE SYSTEMS,
INC.,
Defendant.

ORDER

Adopted: February 11, 1991; Released: February 20, 1991

By the Deputy Chief, Enforcement Division, Common Carrier Bureau:

1. On November 21, 1990, the United States Army Corps of Engineers, North Pacific Division, Seattle District (CENPS) filed the above-captioned formal complaint against Northwest Microwave Incorporated (NMI) alleging, *inter alia*, that an NMI microwave antenna had been unlawfully constructed and was interfering with CENPS's flood control mission. In accordance with Commission rules governing formal complaint proceedings, NMI filed an answer to the complaint.

2. With the assistance of the Enforcement Division, the parties to the proceeding have conducted discussions aimed at resolving the complaint. On January 29, 1991, NMI filed a motion to dismiss the complaint without prejudice. NMI advised that the antenna that had been interfering with CENPS' system had been removed, that NMI had relocated CENPS' antenna to its original location, that NMI had agreed to pay the expenses incurred by CENPS in connection with the interference, and that the parties had entered into a settlement. On February 5, 1991, CENPS filed a concurrence with NMI's motion to dismiss.

3. We encourage negotiations and mutually agreeable settlements in formal complaint cases. In the instant case, we have fully considered NMI's motion and the record in this proceeding and are satisfied that dismissal of the complaint without prejudice and termination of the proceeding will serve the public interest by eliminating the need for litigation and the expenditure of future time and resources of the Commission.

4. Accordingly, IT IS ORDERED, pursuant to authority delegated under 47 C.F.R. § 0.291, that NMI's motion to dismiss the subject complaint without prejudice IS GRANTED and that the proceeding IS TERMINATED.

Before the
Federal Communications Commission
Washington, D.C. 20554

CC Docket No. 90-623

Computer III Remand Proceedings:
Bell Operating Company Safeguards;
and Tier 1 Local Exchange Company
Safeguards

ORDER

Adopted: February 13, 1991; Released: February 13, 1991

By the Chief, Common Carrier Bureau:

1. The National Association of Regulatory Utility Commissioners (NARUC) and the Pennsylvania Public Utility Commission (Pennsylvania PUC) have requested an additional twenty-eight days for filing comments in this proceeding.[1] NARUC states that any expression of intent by the Federal Communications Commission to preempt state regulation affects the ability of NARUC's members to carry out their statutory obligations. NARUC states that an extension would enable it to develop a formal consensus position at its winter meetings, during the last week of February. The Pennsylvania PUC also states that any decision to preempt state regulation would have an impact on its ability to carry out its statutory responsibilities. The Pennsylvania PUC states that it is conducting a proceeding to determine whether to require telephone companies to file tariffs for the provision of enhanced services, and whether nonstructural or structural safeguards are appropriate for the provision of enhanced services. Both NARUC and the Pennsylvania PUC state that no party will be significantly prejudiced by the delay.

2. While we do not routinely grant extensions of time, we believe that in this case, there is good cause for a limited extension.[2] The issues raised by the Commission's Notice of Proposed Rulemaking are complex, and because the Commission has proposed to preempt certain types of state regulation, the states have a clear interest in participating in this proceeding. However, we believe that expeditious resolution of this proceeding is also in the public interest. We conclude that a twenty-one day extension of time to file comments will be sufficient to permit full participation by the states and the development of a complete record, without unnecessarily delaying a Commission decision in this proceeding.

3. Accordingly, IT IS ORDERED, that the requests for extension of time ARE GRANTED to the extent described herein. Interested parties ARE TO FILE comments by **March 8, 1991,** and reply comments by **April 8, 1991.**

FEDERAL COMMUNICATIONS COMMISSION

Richard M. Firestone
Chief, Common Carrier Bureau

FOOTNOTES

[1] Request for an Extension of Time to File Comments by the National Association of Regulatory Utility Commissioners, filed on February 5, 1991; Request for an Extension of Time to File Comments by the Pennsylvania Public Utility Commission, filed February 11, 1991. The Commission established February 15, 1991 as the filing date for comments and March 18, 1991 for replies in the Notice of Proposed Rulemaking, CC Docket No. 90-623, 6 FCC Rcd 174 (1990).

[2] Section 1.46(a) of the Commission's Rules, 47 C.F.R. § 1.46(a).

[3] This action is taken pursuant to Sections 4(j) and 5(c) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(j) and 155(c), and authority delegated thereunder pursuant to Section 0.91 and 0.291 of the Commission's Rules, 47 C.F.R. §§ 0.91 and 0.291.

Before the
Federal Communications Commission
Washington, D.C. 20554

LETTER
February 5, 1991

Released: February 20, 1991

Micronesia Broadcasting Corporation
c/o John Wells King
Haley, Bader & Potts
Suite 600
2000 M Street, N.W.
Washington, D.C. 20036-3374

8940-LJ

Gentlemen:

This refers to the applications you filed (BTCCT-900817KJ, BTC900817KK, and BTCH-900817KL) for the transfer of control of Pacific Telestations, Inc., Debtor-in-Possession (PTI), licensee of stations KUAM(AM), KUAM-FM, and KUAM-TV (channel 8), Agana, Guam, from Micronesia Broadcasting Corporation ("Trustee") to Micronesia Broadcasting Corporation (Micronesia).[1] Since the acquisition of control of radio and television facilities in the same community is generally prohibited by the one-to-a-market provisions of Section 73.3555(b) of the Commission's Rules, you have requested a waiver, pursuant to note 7 of the rule, to permit ownership of the stations.

In support of the waiver, you maintain that PTI has chronically lost money in the operation of KUAM(AM), KUAM-FM and KUAM-TV, and continues to sustain losses primarily because of competition from the local cable television system which has an 85-percent penetration rate. The local cable system, you assert, originates programming on two channels, and has ownership interests in common with the dominant FM radio station in the market, KOKU-FM.[2] Additionally, you state, PTI has been involved in a Chapter XI bankruptcy proceeding in the United States Bankruptcy Court for the District of Guam since 1985. You note that in adopting the current provisions of Section 73.3555 of the Rules, the Commission stated that broadcast stations involved in bankruptcy proceedings would present a situation in which the Commission would be predisposed to grant waivers of the one-to-a-market rule under the failed-station standard. Therefore, you argue, since bankruptcy is one of two specific conditions which will satisfy the failed-station test, a grant of the requested waiver is warranted.

Further, you maintain that by waiving the rule, the Commission would enable the stations to gain economic strength through the infusion of new equity. You claim that new ownership would raise the expectation that the stations can successfully reorganize their economic affairs and continue to provide the community with a responsive broadcast service. Moreover, you assert, given the location of the stations, unique and unusual circumstances are presented in this case. In this regard, you point out that in granting a waiver of the one-to-a-market rule to PTI in 1977, the Commission stated that "the Guam television market is too small and too geographically distant to be fairly compared to any other U.S. television market. . . Accordingly, we believe that the strictures of the 'one-to-a-market' rules must be tempered to take into consideration the distant and insular characteristics of the Guam television market." *Pacific Broadcasting Corporation*, 66 FCC 2d 256, 259 (1977), *recon. denied*, 68 FCC 2d 845 (1978). In initiating the rule making which led to the present multiple ownership rule, you maintain, the Commission again took specific note of its waiver for Guam. *Amendment of Section 73.3555 of the Commission's Rules (Notice of Proposed Rule Making)*, 2 FCC Rcd 1138, 1139 (1987).

In *Amendment of Section 73.3555*, 4 FCC Rcd 1741, *reconsidered in part*, 4 FCC Rcd 6489 (1989), we set out standards for reviewing requests for waivers of the one-to-a-market rule. We concluded that we would look favorably upon waiver requests involving ownership of failed stations that have not been operational for a substantial period of time (*e.g.*, four months) or stations that are involved in bankruptcy proceedings. *Id.* at 1752. *See also*, Note 7 of Section 73.3555(b) of the Rules. Here, approval of the transaction, proposed under the auspices of the bankruptcy court, would result in a transfer of control of PTI, the debtor-in-possession, and further a reorganization of PTI's economic affairs while maintaining service in a unique television market. Under these circumstances, we believe that waiver under the failed-station standard is appropriate. Therefore, we find that you are fully qualified and that a grant of the application will serve the public interest, convenience, and necessity.

Accordingly, your request for waiver of the Commission's one-to-a-market rule, Section 73.3555(b), IS GRANTED; and your applications for transfer of control of Pacific Telestations Inc., debtor-in-possession, licensee of stations KUAM(AM), KUAM-FM and KUAM-TV, Agana, Guam, from Micronesia Broadcasting Corporation ("Trustee") to Micronesia Broadcasting Corporation ARE GRANTED.

BY DIRECTION OF THE COMMISSION

Donna R. Searcy
Secretary

FOOTNOTES

[1] In its acquisition of the subject stations in September 1977, PTI was granted a waiver of the Commission's one-to-a-market rule. Micronesia presently controls PTI pursuant to the staff's grant of a *pro forma* application for involuntary transfer of control of the licensee on April 13, 1989. Micronesia was the owner and holder of a portion of the debt and security interest covering certain collateral, including all of the capital stock of PTI. The court ordered the transfer of PTI's stock in order to assure the continued operations of its broadcasting service to Agana, Guam. However, PTI remains under the jurisdiction of the District Court as a debtor-in-possession. Since Micronesia's control of PTI was at the direction, and under the supervision of the bankruptcy court, it functions essentially as a court appointed trustee. The Commission has previously ruled that "[p]rospective purchasers . . . have . . . been allowed to furnish funds and act in varying capacities in the operation of stations

involved, under supervision of court appointed Trustees in Bankruptcy in order to assure continuance of service." *Phoenix Broadcasting Co.*, 44 FCCC 2d 838, 840 (1973). It was on that basis that a *pro forma* application was approved by the staff. The grant of the application was conditioned upon the filing of a long-form application.

[2] Although the creation of television broadcast/cable television combinations is prohibited, 47 U.S.C. Section 533, 47 C.F.R. Section 76.501, there is no prohibition against radio broadcast/cable television combinations.

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

PHONE AMERICA
OF CAROLINA, INC.,
Complainant,

v.

CONTEL OF NORTH CAROLINA, INC.,	E-89-363
ILLINOIS BELL TELEPHONE COMPANY, and	E-89-364
SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY,	E-89-367
Defendants.	

ERRATUM

Released: February 20, 1991

By the Chief, Enforcement Division, Common Carrier Bureau:

1. On January 25, 1991, the Enforcement Division, Common Carrier Bureau, issued an Order holding in abeyance certain formal complaint proceedings. *Order*, DA 91-82 (released February 5, 1991) (the *"Order"*). This erratum corrects the *Order* by deleting from the caption "Southern Bell Telephone and Telegraph Company, File No. E-89-367." Phone America's complaint against Southern Bell had been dismissed prior to adoption of the *Order*, but was inadvertently included among the proceedings held in abeyance.

FEDERAL COMMUNICATIONS COMMISSION

Mary Beth Richards
Chief, Enforcement Division
Common Carrier Bureau

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

COMPUPLEX INC.
WESTERN UNION
CORPORATION File No. CSG-90-081-AL

Application for Consent to
Assign Transmit/Receive Earth
Station Licenses from Western
Union Corporation to CompuPlex, Inc.

COMPUPLEX INC. File No. I-T-C-90-189

Application for authority to
establish channels of communication
between the U.S. and INTELSAT
satellites for provision of INTELSAT
Business Services and international
television service.

ORDER, AUTHORIZATION AND CERTIFICATE

Adopted: February 13, 1991; Released: February 21, 1991

By the Chief, International Facilities Division:

1. The Commission has under consideration the above-captioned applications requesting authority for consent to assign the licenses for four international earth station from Western Union Corporation (Western Union) to CompuPlex Inc. (CompuPlex) and for authority pursuant to Section 214 of the Communications Act of 1934, as amended, to establish lines of communications between these earth stations and INTELSAT Atlantic (AOR) and Pacific Ocean Region (POR) satellites for the provision of INTELSAT Business Service (IBS) and television service. The applications were placed on the Commission's public notice and no comments were received.

2. The four international earth stations to be assigned to CompuPlex are owned jointly by World Communications, Inc. (Worldcom) and IDB Communications Group, Inc. (IDB)[1] and are jointly licensed to Western Union and IDB, respectively. Upon grant of the assignment application, the four international earth stations will be licensed jointly to CompuPlex and IDB.[2] CompuPlex and Worldcom have entered into an earth station agreement pursuant to which CompuPlex will accept and exercise full responsibility and control for the earth stations to the extent of Worldcom's ownership interests in such stations and will fulfill all duties of a Commission licensee. [3] Worldcom will lease its interest in the earth stations to CompuPlex for $5,000 per month. CompuPlex in turn agrees to make available to Worldcom its share of the capacity in the earth stations to Worldcom.

3. With respect to its request to provide IBS service, CompuPlex seeks authority to establish channels of communication between the U.S. and INTELSAT AOR and POR satellites for the provision of IBS and television service. CompuPlex states that it will use the aforementioned earth stations to be assigned from Western Union to it to provide IBS and television services. Upon consideration of the application, IT IS HEREBY CERTIFIED that the present and future public convenience and necessity require the provision of IBS and television service by CompuPlex.

4. Accordingly, IT IS ORDERED that application File No. I-T-C-90-081-AL IS GRANTED and consent is hereby granted for Western Union to assign to CompuPlex its interest in the international transmit/receive earth station licenses it holds jointly with IDB for the following stations:

KA-77	Washington, D.C.
KA-97	Vallejo, California
KA-98	Vallejo, California
KA-230	New York, New York

5. IT IS FURTHER ORDERED that application File No. I-T-C-90-189 IS GRANTED, and CompuPlex is authorized to establish channels of communication between the U.S. and INTELSAT AOR and POR satellites for provision of IBS and related digital video service and international television service between the U.S. and the points listed in Comsat's tariff provisions for the space segment component of IBS and related digital video service and international television service.

6. IT IS FURTHER ORDERED that that portion of Section 4.01 of the earth station agreement between Worldcom and CompuPlex referenced in footnote 3 herein shall be deleted.

7. CompuPlex shall file a separate application pursuant to Title III of the Communications Act for construction of any earth station not previously authorized.

8. This order is issued under Section 0.291 of the Commission's rules and is effective upon release. Petitions for reconsideration under Section 1.106 or applications for review under Section 1.115 of the Commission's rules may be filed within 30 days of the date of public notice of this order (*See* Section 1.4(b)(2)).

FEDERAL COMMUNICATIONS COMMISSION

George S. Li
Chief, International Facilities Division
Common Carrier Bureau

FOOTNOTES

[1] IDB is a fifty percent owner of the subject international earth stations.

[2] Worldcom is not eligible under Section 310(b) of the Communications Act of 1934, as amended, to hold a common carrier earth station license because it is controlled by a corporation organized under the laws of a foreign government. 47 U.S.C. §310(b)(2).

[3] Section 4.01 of the earth station agreement provides that CompuPlex shall make available to Worldcom "all of the uplink and downlink capacity requested by Worldcom to satisfy the requirements of its customers" to the extent that such capacity is attributable to Worldcom's interests in the subject stations. This provision contradicts the representation made by CompuPlex that it will exercise full responsibility and control of its interest in the earth stations. As such, we require that above-referenced portion of Section 4.01 be deleted from the earth station agreement. CompuPlex can hold its share of the licenses for the four international earth stations as long as it retains, in fact, full control of the business and policy decisions regarding the earth stations. If circumstances should arise that demonstrate that, in the absence of prior Commission approval, Worldcom exercises effective control over the business and policy decisions affecting these stations, we would, of course, take appropriate enforcement action. *See, e.g.*, 47 U.S.C. §312(a).

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

Letter Dated August 17, 1990, To All Local Exchange Carriers Regarding Continued Use of STARS — AAD 90-23

ORDER

Adopted: January 12, 1991; Released: February 22, 1991

By the Chief, Common Carrier Bureau:

1. Pacific Bell and Nevada Bell ("the Pacific Companies") request a ruling on their "Motion to Withdraw" their Petition for Reconsideration filed on September 21, 1990 in the above-captioned matter. Their petition sought reconsideration of the Bureau's August 17, 1990, Letter (5 FCC Rcd 5465) requiring certain carriers to continue to collect usage data required for the jurisdictional separation of certain cable and wire facilities, local switching equipment and central office equipment. In doing so, the Pacific Companies state that they have agreed to fund the STARS project and are no longer seeking Commission action on their petition. We conclude that the public interest will be served by granting their request.

2. Accordingly, IT IS ORDERED, that the Motion to Withdraw the Petition for Reconsideration filed by the Pacific Companies on December 20, 1990 IS GRANTED.

FEDERAL COMMUNICATIONS COMMISSION

Richard M. Firestone
Chief, Common Carrier Bureau

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 87-426

In re Applications of	
SHAWN PHALEN	File No. BPH-851231MO
ELLWOOD BEACH BROADCASTING, LTD.	File No. BPH-851231MS
SPIRIT BROADCASTING	File No. BPH-860102MZ
JAMES EVANS	File No. BPH-851231MR
CLAUDIA BRATTON	File No. BPH-860102MX
For Construction Permit for a New FM Station in Montecito, California	

MEMORANDUM OPINION AND ORDER

Adopted: February 7, 1991; Released: February 22, 1991

By the Commission:

I. BACKGROUND

1. Now before the Commission is a request by Claudia Bratton to disqualify the Review Board from further participation in this proceeding, which involves mutually exclusive applications for authority to construct and operate a new commercial FM broadcast station in Montecito, California. To place Bratton's request in context, it is necessary to review the procedural history of this proceeding. Administrative Law Judge Walter C. Miller granted Bratton's application following a comparative hearing. *Shawn Phalen*, 4 FCC Rcd 5714 (I.D. 1989). The competing applicants filed exceptions to the initial decision and the Review Board remanded the proceeding to the ALJ, specifying a financial qualifications issue against Bratton. *Shawn Phalen*, 5 FCC Rcd 53 (Rev. Bd. 1990). After remand, the ALJ granted Bratton's motion to amend her application to substitute a new financial proposal. *Shawn Phalen*, FCC 90M-618 (Mar. 26, 1990). In light of Bratton's new financial proposal, the ALJ found no genuine issue of material fact with regard to Bratton's financial qualifications that would warrant a hearing. Consequently, in a supplemental summary decision, the ALJ found Bratton financially qualified and reinstated his initial decision awarding the construction permit to her. *Shawn Phalen*, 5 FCC Rcd 2057 (S.S.D. 1990).

2. At the same time that exceptions to the supplemental initial decision were pending, Bratton filed a motion to recuse Board Chairman Marino and Board Member Blumenthal. Bratton charged -- based primarily on an interlocutory order issued by the Board during the course of the remand proceedings -- that these Board Members had prejudged the outcome of the financial inquiry. The Board then reversed the supplemental summary decision, again remanded the proceeding to the ALJ for further hearings on Bratton's financial qualifications, and in the same order, rejected the motion by Bratton to recuse Board Chairman Marino and Board Member Blumenthal. *Shawn Phalen*, 5 FCC Rcd 4669-70 ¶ 3 (Rev. Bd. 1990). The Board criticized the ALJ for allowing Bratton to amend her application and submit a new financial proposal without first determining whether Bratton had the requisite reasonable assurance of financing when she so certified in her original application. As to Bratton's motion to recuse, the Board found that the procedures for disqualification of a presiding officer, set forth in 47 C.F.R. § 1.245, pursuant to which Bratton filed her motion, do not apply to the Board. Nonetheless, the Board also addressed the merits of Bratton's motion, finding no personal bias or prejudice on the part of Chairman Marino or Member Blumenthal that would compromise the Board's ability to act impartially. *See* 5 FCC Rcd at 4670 n.2. Accordingly, Bratton's motion was denied.

3. The Board's denial of Bratton's motion is the subject of her interlocutory appeal now before the Commission.[1] Additionally, the ALJ has stayed further proceedings ordered by the Board in its order vacating the supplemental summary decision. *See Memorandum Opinion and Order*, FCC 90M-2601 (Aug. 21, 1990). Because we agree that the disqualification procedures of 47 C.F.R. § 1.245, which authorizes immediate appeal of requests to disqualify, are not applicable to the Review Board, we will dismiss Bratton's appeal.

II. DISCUSSION

4. The provisions of 47 C.F.R. § 1.245 state on their face that they apply to "presiding officers." Nonetheless, Bratton argues that these provisions necessarily apply to members of the Review Board and not only to ALJs.[2] Bratton argues that because the APA requires agencies to dispose of requests for disqualification and 47 C.F.R. § 1.245 is the only rule setting forth procedures for the disqualification of Commission employees, its provisions must be applied to Review Board members as well as ALJs.

5. We disagree. The APA does not prescribe the procedures by which an agency must resolve requests for the disqualification of a participating employee beyond stating that requests for disqualification must be disposed of "as a part of the record and decision in the case." *See* 5 U.S.C. § 556(b). Thus, the APA does not require that any particular interlocutory procedures, such as those contained in 47 C.F.R. § 1.245, be employed and these procedures are applicable here only if the Commission so intended.

6. The recent amendment of 47 C.F.R. § 1.245 makes clear that its provisions do not apply to Review Board members. Section 1.245 now provides that a denial of a motion for disqualification may be appealed as a matter of right to the Review Board (rather than to the Commission) on an interlocutory basis. *See Amendment of Sections 1.115, 1.245 and 1.301 of the Commission's Rules*, 5 FCC Rcd 5366 (1990). Thus, the provisions of 47 C.F.R. § 1.245 could not apply to the Board itself. [3] Because the rules provide no special procedure for the interlocutory

appeal of a Board ruling relating to the disqualification of its members, Bratton's appeal of the Board's denial of her motion must be considered under the general provision of 47 C.F.R. § 1.115(e)(1), which states that appeals of interlocutory rulings of the Board must be deferred until it is appropriate to seek review of a final Board decision.

7. Dismissal of Bratton's appeal without reaching the merits of her argument does not foreclose Bratton's right to seek review of the Board's decision with respect to the denial of her request for disqualification of Chairman Marino and Member Blumenthal. Nor does our dismissal of Bratton's motion constitute a decision that the qualifications of Board members cannot be challenged.[4] However, Bratton must wait to challenge the Board's refusal to recuse Chairman Marino and Member Blumenthal until it is appropriate to file an application for review of the Board's final decision in this proceeding.

8. ACCORDINGLY, IT IS ORDERED, That the Exceptions to Denial of Motion to Recuse filed July 30, 1990 by Claudia Bratton ARE DISMISSED without prejudice to Bratton's raising the arguments contained therein as part of her exception to a final Review Board decision.

FEDERAL COMMUNICATIONS COMMISSION

Donna R. Searcy
Secretary

FOOTNOTES

[1] The following pleadings are before the Commission: (1) Exceptions to Denial of Motion to Recuse filed July 30, 1990 by Bratton; (2) Motion to Strike filed August 3, 1990 by Shawn Phalen; (3) Motion to Strike filed August 6, 1990 by Ellwood Beach Broadcasting, Ltd.; (4) Motion to Strike filed August 8, 1990 by Spirit Broadcasting; (5) Motion to Strike filed August 10, 1990 by James Evans; (6) Opposition to Motions to Strike filed August 14, 1990 by Bratton.

[2] Bratton relies on the following provision of the Administrative Procedure Act (APA):

> . . . A presiding or participating employee may at any time disqualify himself. On the filing in good faith of a timely and sufficient affidavit of personal bias or other disqualfication of a presiding or participating employee, the agency shall determine the matter as a part of the record and decision in the matter.

5 U.S.C. §556(b).

[3] It is reasonable to exclude the Review Board from the disqualification procedures set forth in 47 C.F.R. § 1.245, since there is a clear distinction between the Board's appellate role and the role of the ALJs, who must conduct hearings. Allegations of bias on the part of the ALJ is subject to immediate review so that disqualification, when appropriate, may be expedited in order to ensure that the record is not tainted.

[4] The Board previously has considered a motion for disqualification. *See Faith Center, Inc.*, 92 FCC 2d 1255, 1258 ¶¶ 9-10 (Rev. Bd 1983). Likewise, the qualifications of Commissioners have also been challenged. *See, e.g., Chronicle Broadcasting Co.*, 40 FCC 2d 775, 777-82 ¶¶ 4-17 (1973); *American Telephone & Telegraph Co.*, 26 FCC 2d 523 (1970).

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 87-246

In re Applications of

WARREN PRICE COMMUNICATIONS, INC.	File No. BPH-850712GV
BAY SHORE COMMUNITY BROADCAST ASSOCIATES, LTD.	File No. BPH-850712US
BAY SHORE BROADCASTING CORPORATION	File No. BPH-850712UT
PATRICIA PRIE, BARBARA J. HUGHLEY and BETTY D. FOX d/b/a FIRE ISLAND BROADCASTING	File No. BPH-850712UW
KANDEL BROADCASTING CORPORATION	File No. BPH-850712VA
EVERETT A. REESE, RONI W. POOLE and C. WALLACE SCHANDALL d/b/a RPS COMMUNICATIONS	File No. BPH-850712VB
SUSAN LUNDBORG	File No. BPH-850712VE
SOUTH SHORE MEDIA CORPORATION	File No. BPH-850712VF

For a Construction Permit for
a New FM Station on Channel 276
in Bay Shore, New York

MEMORANDUM OPINION AND ORDER

Adopted: February 7, 1991; Released: February 22, 1991

By the Commission:

1. Before the Commission for consideration are a Supplement to Petition for Reconsideration and Petition to Dismiss, filed November 5, 1990 by Long Island Music Broadcasting, Inc. (LIMBC), and a letter, dated November 19, 1990, from Susan Lundborg.

2. The pleading that LIMBC is seeking to supplement was dismissed. *Warren Price Communications, Inc.*, 5 FCC Rcd 5755 (1990). LIMBC, however, has charged that Lundborg filed misleading documents with the FAA when she applied for clearance for her transmission tower, and that she misrepresented her right of access to the tower in pleadings before the Commission. LIMB asserts that it is relying on newly discovered facts which were not previously available, and it asks the Commission to investigate its charges. In view of the nature of the allegations raised by LIMBC we have treated the Supplement as a request to reopen the record and to remand this proceeding to the ALJ for further hearings. For the reasons that follow, we deny the requested relief.

The FAA Filing

3. Lundborg amended her application to specify the transmission tower of Station WLIX, Islip, New York, as its antenna site. LIMBC argues that Lundborg intentionally misled the Federal Aviation Administration by submitting an engineering drawing that mistakenly identified its proposed antenna site as the "existing WALR(AM) tower" and asserting that it was "for the proposed FM operation at Bay Shore, New York." LIMBC argues that the allegedly incorrect information rendered the application for FAA clearance invalid and provided inadequate notice to the public.

4. LIMBC's arguments are without merit. The document attached to LIMBC's pleading as Exhibit 1 is dated "October 1990" and was included in an amendment filed with Commission on October 24, 1990. From the amendment and accompanying documentation it is clear that Lundborg was referring to the WLIX tower, that there was no intent to mislead anyone, and that LIMBC's showing provides no evidence that anyone was misled. *See* Petition for Leave to Amend filed October 24, 1990 by Lundborg, Exh. E-2. There is nothing before us to indicate that the engineering drawing was even submitted to the FAA. In response to the Supplement Lundborg submitted a copy of a request for FAA clearance dated September 13, 1990 which properly identified the WLIX tower, as well as the FAA's aeronautical study dated October 11, 1990, clearing Lundborg's proposed use of the WLIX tower. Thus, LIMBC has not raised any substantial and material questions of fact concerning Lundborg's FAA filings that would warrant reopening the record.

Lundborg's Antenna Site

5. LIMBC submitted an affidavit from James Mooney, a helicopter pilot who contacted Lloyd Parker, the general manager of WLIX, because he was concerned about the impact of Lundborg's proposed modification of the WLIX tower on air safety. Mooney affirms that Parker told him that WLIX would not add an antenna to its tower of the

type proposed by Lundborg. LIMBC also submitted an affidavit from one of its principals affirming that he had been assured by Parker that no one had been granted permission to mount an additional antenna on the WLIX tower. Based on these affidavits, LIMBC argues that Lundborg has misled the Commission with respect to the availability of her proposed antenna site.

6. Lundborg has submitted a statement under penalty of perjury from Parker affirming that WLIX's engineers had approved the mounting of Lundborg's proposed antenna on its transmission tower, and that he had given Lundborg permission to modify the WLIX tower and to mount her antenna on it. In contrast, LIMBC did not produce an affidavit from Parker, but relies on second-hand hearsay. In view of the statement by Parker, LIMBC's pleading fails to raise a substantial and material question of fact warranting a remand for hearing on the availability of Lundborg's proposed antenna site.

7. ACCORDINGLY, IT IS ORDERED, That the relief requested in the Supplement to Petition for Reconsideration and Petition to Dismiss, filed November 5, 1990 by Long Island Music Broadcasting Corporation IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Donna R. Searcy
Secretary

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 89-112

In re Applications of

JOE L. ALDRIDGE File No. BPH-871201MA

TOWER COMMUNICATIONS, INC. File No. BPH-871203MM

For Construction Permit for
New FM Station, Channel 289A,
Hawesville, Kentucky

Appearances

Timothy K. Brady, on behalf of Joe L. Aldridge; and *Howard M. Weiss*, on behalf of Tower Communications, Inc.

DECISION

Adopted: February 8, 1991; Released: February 22, 1991

By the Review Board: MARINO (Chairman), and ESBENSEN. Board Member BLUMENTHAL dissenting with statement.

Board Chairman MARINO:

1. This proceeding involves the competing applications of Joe L. Aldridge (Aldridge) and Tower Communications, Inc. (Tower) for authority to construct a new FM broadcast station on Channel 289A in Hawesville, Kentucky. In an *Initial Decision* (I.D.), 5 FCC Rcd 3218 (1990) Administrative Law Judge Edward Luton (ALJ) found Aldridge to be the preferred applicant under the standard comparative issue. Specifically, the ALJ held that whereas both applicants were entitled to 100% quantitative integration credit, Aldridge received moderate preferences for local residence and civic participation which outweighed Tower's slight advantage for broadcast experience. Exceptions were filed by Tower (and contingent exceptions by Aldridge), and the Board heard oral argument on November 28, 1990. Based on our review of the record, we conclude that the I.D. should be affirmed and a grant made to Aldridge.

2. Tower's exceptions to the I.D.'s grant of Aldridge's application are limited to the ALJ's evaluation of the integration factor. First, Tower alleges that Aldridge's integration proposal is not credible or reliable. That is, Tower argues that Aldridge has not met his burden of demonstrating how his full-time integration proposal can be reconciled with his extant accounting practice, and disputes as incredible Aldridge's claim that he would transfer control of the business to his wife upon a grant of the construction permit. Next, Tower questions the ALJ's award of moderate preferences to Aldridge for local residence and civic participation. Tower argues that Tell City, Indiana, its principal's community of residence, is contiguous to Hawesville in the sense that only a river separates the two communities, and that therefore Tower's enhancements are equal or almost equal to Aldridge's, citing *Minority Broacasters of East St. Louis, Inc.*, 99 FCC 2d 264 (Rev. Bd. 1984), *modified*, 57 RR 2d 1390 (1985), *aff'd sub nom. Spectrum Telecommunications Corp. v. FCC*, 786 F.2d 432 (D.C. Cir. 1986), and *Waters Broadcasting Corp.*, 91 FCC 2d 1260 (1982), *aff'd sub nom. West Michigan Broadcasting Co. v. FCC*, 735 F2d 601 (D.C. Cir. 1984), *cert. denied*, 470 U.S. 1027 (1985). Finally, Tower asserts that the ALJ erred in awarding any previous broadcast experience credit to Aldridge for accounting services performed for a broadcast client, and that Tower's principal's long-term managerial experience at a local radio station should outweigh the (at most) very slight local residence and civic participation credits for Aldridge. We reject these contentions.

3. The ALJ awarded Aldridge, who is an individual applicant, 100% integration credit based on his proposal to work full-time as General Manager of the new station. Although Aldridge is currently employed by an accounting firm which he owns, the ALJ found that Aldridge intended to terminate his employment, turn ownership and operation over to his wife, and have no further involvement in the business. I.D., paras. 4, 5, 42. Despite Tower's arguments to the contrary, the record fully supports the ALJ's findings. *See* Aldridge Exh. 1, pp. 1-2; Tr. 18-21. In addition to the foregoing plans, Aldridge also explained that his four current employees at the accounting firm could fill in for him after he left, and that he has discussed these matters with his wife and his employees. Tr. 21-22; 27. Aldridge and his wife have also discussed the possibility of hiring additional personnel if needed. Tr. 23-24; 65-66. This testimony, reasonable on its face and uncontradicted by other evidence, satisfies the requirement that an applicant show how he can curtail or eliminate his other business interests in order to accommodate a full-time work commitment to the proposed station. *See, e.g., Las Americas Communications, Inc.*, 1 FCC Rcd 786, 792 (Rev. Bd. 1986)(applicant's "intention to transfer his [business] responsibilities to his wife is an effective trimming of his non-broadcast commitments.")

4. With regard to enhancement credits, the ALJ found that Aldridge, who was born in Hawesville and has been a continuous life-long resident there since 1948, was preferred on local residence to Tower, a corporation whose sole stockholder, Jay Roland Brewer, has resided or maintained a permanent residence in Tell City, Indiana, a community within the proposed service area, for most of his life. Similarly, the ALJ found that Brewer's credit for participation in civic activities in the service area was outweighed by Aldridge's record of civic participation in the city of license. I.D., paras. 6-7, 31, 44-45. Although Tower seeks to liken its credit in both respects to Aldridge's, we reject its position for several reasons.

5. First, we disagree with Tower that, under the *Minority Broadcasters* line of cases, its principal's service area residence must be equated to Aldridge's local residence. The Commission, in its seminal *Policy Statement on Comparative Broadcast Hearings*, 1 FCC 2d 393, 396 (1965), specified that "residence in the principal community to be served will be of primary importance, closely followed

by residence outside the community, but within the proposed service area." This hierarchy has always been observed, *see Waters Broadcasting Corp., supra*, 91 FCC 2d at 1263 ("similar benefits [to local residence], albeit on a lesser scale, would be derived from residence in the service area"), and indeed, the *Policy Statement's* parallel emphasis on the primacy of the community of license for diversification purposes as well has also been steadfastly maintained. *Id.*, at 394 ("Other interests in the principal community to be served will normally be of most significance, followed by other interests in the remainder of the proposed service area . . . ."); *see Ramon Rodriguez*, 5 FCC Rcd 4091 (1990) (Diversification preference reduced from "substantial" to "moderate to substantial" because "other broadcast interest is in the proposed FM service area, not the community of license.")

6. The only exception to the general rule that local residence is entitled to superior credit is a narrow one, and that is where service area residence is in a community "contiguous" to the proposed community of license, the two have been treated as equal in importance. *Minority Broadcasters, supra*, 99 FCC 2d at 269; *New Continental Broadcasting Co.*, 88 FCC 2d 830, 849 n. 20 (Rev. Bd. 1981) (subsequent history omitted); " *What the Bible Says, Inc.* ", 28 FCC 2d 551, 556 (Rev. Bd. 1971). Here, however, the record does not support a finding that Hawesville, Kentucky and Tell City, Indiana are contiguous communities. The ALJ found, based on a map contained in a stipulated joint engineering exhibit (Joint Exh. 1), that the communities did not border or touch one another but were separated by a distance of approximately five miles. I.D., para. 32. Tower alleges that the map was unreliable and that the ALJ "ignored the best evidence of distance" (Tower Br. at 12), which it claims is 2.1 miles. Tower's "best evidence" consisted of a statement from a state transportation official which was submitted post-hearing as an attachment to Tower's reply findings and, as such, was not received in evidence by the ALJ. Tower may not now be permitted "to parry with an offer of more evidence." *See Colorado Radio Corp. v. FCC*, 118 F. 2d 24, 26 (D.C. Cir. 1941); *Payne Communications, Inc.*, 1 FCC 2d 1052, 1053 (Rev. Bd. 1986). In any event, the transportation official's statement is, at best, cumulative in view of the testimony given by Mr. Brewer that the actual distance was 2.1 miles by automobile. I.D., para. 32; *see* Tower Exh. 2, pp. 1-2.

7. We seriously question whether Tower can now turn its back on information contained in an engineering exhibit to which it stipulated, particularly when it submitted no other map into evidence. Also, its position is internally inconsistent because, based on its own reading of the map in question, it estimates the distance between the communities as three to four miles. (Tower Br. at 12, n. 7). Furthermore, the ALJ specifically relied on additional evidence to support his finding, notably the testimony of Mr. Brewer, elicited on cross-examination, which established that the two communities were separated by the City of Cannelton, Indiana, which one would have to pass through (as well as cross the Ohio River by means of a toll bridge between Cannelton and Hawesville) in order to reach Hawesville from Tell City. Tr. 165. In view of the intervening community of Cannelton, and the more than minimal distance between Tell City and Hawesville, we cannot accept the contention that Tell City abuts or borders upon Hawesville and that the communities are therefore contiguous. *See Richardson Broadcasting Group*, 5 FCC Rcd 6364 (Rev. Bd. 1990) (contiguity "line of cases . . . applies only when the community of license is essentially 'inseparable' from the residential community . . . "), *reaffirmed*, 5 FCC Rcd 6964 (Rev. Bd. 1990).

8. We note, further, that in *Minority Broadcasters*, upon which Tower places primary reliance, the Board, in applying the contiguity exception, stated: "The rationality of such treatment is particularly strong in television cases such as this one, because television service is designed to serve large areas rather than small communities . . . ." 99 FCC 2d at 269. While the exception has not been limited exclusively to television proceedings, *see, e.g., Ronald Sorenson*, 5 FCC Rcd 3144, 3149 n. 10 (Rev. Bd. 1990), its underlying purpose must be borne in mind. As explained in perhaps the first post- *Policy Statement* case to employ the contiguity concept, " *What The Bible Says, Inc.* ", *supra* : "There is no question that [the applicant] is identified with [the community of license] . . . through other contacts such as his present business and community activities--so as to afford the Review Board assurance that he possesses continued understanding of the needs and interests of the community to be served." *Id.*, at 556 n. 21. Here, by contrast, there is no evidence that Mr. Brewer has had any community activities in Hawesville or other ties to the proposed community of license. Tower's claim to equal enhancement credit rests solely on proximity, rather than familiarity with Hawesville.

9. Even assuming *arguendo*, however, that Tower had established to our satisfaction that Tell City and Hawesville were contiguous, we would still not accord equal or nearly equal weight to the applicants' local residence and civic participation backgrounds. With regard to local residence, as previously noted, the ALJ found that Aldridge, who was born and raised in Hawesville, has been a life-long resident of that community and, even while attending college in Owensboro, Kentucky, he commuted, thus continuing to reside full time in Hawesville. I.D., para. 6; Aldridge Exh. 1, p. 2. On the other hand, Brewer, Tower's principal, left Tell City between the years 1962 through 1970 to attend high school and college out of town. While he maintained a permanent residence in Tell City, he only returned there on holidays and during summers, spending at most four months a year there. Furthermore, even after completion of his schooling, he did not resume full-time residence in Tell City until some nine years later in 1979. Tower Exh. 2, p. 1; Tr. 165-166. Thus, for a seventeen year period, during which Aldridge maintained continuous local residences in Hawesville, Brewer did not even live full-time in the service area. Considering these facts, as well as the fact that Aldridge is a life-long resident of Hawesville, and that, prior to 1979, Brewer's full-time residency in the service area occurred during his youth, we conclude that Aldridge is significantly ahead on local residence credit. *See Beach Broadcasting Limited Partnership*, FCC 91R-2, adopted January 8, 1990, para. 7 (life-long resident with seventeen years more residence prevails over competitor); *Linda Crook*, 3 FCC Rcd 354 (Rev. Bd. 1988)(remote residence during youth and current residence during summers or, at best 50% of the year, is entitled to much reduced credit and does not compare with continuous, lengthy local residence); *Vacationland Broadcasting Co., Inc.*, 97 FCC 2d 485, 496 (Rev. Bd. 1984) (applicant with sixteen year advantage awarded preference) (subsequent history omitted).

10. Similarly, with respect to civic participation credit, the record shows that Brewer's activities in the service area have all occurred since 1980, only after he returned to Tell City to reside there full-time. Tower Exh. 2, pp. 2-4. By contrast, Aldridge has been continuously involved for many years in religious, civic, charitable, and community activities in Hawesville, where he has lived his entire life, and for which he has received local recognition. Aldridge Exh. 1, pp. 3-7. While both applicants are deserving of credit for their participation in community activities, we must favor to some extent the applicant whose service to the community has spanned a longer period because of his continuous residence there. *See Policy Statement on Comparative Broadcast Hearings, supra*, 1 FCC 2d at 396 (civic participation, which is part of applicant's local residence background, is significant insofar as it indicates a continuing knowledge of and interest in the community.) Although Aldridge has reduced some of his activities recently, he has not "withdrawn" from civic participation and, accordingly, we reject Tower's claim that Aldridge should receive no preference. *See Radio Jonesboro, Inc.*, 100 FCC 2d 941, 947 (1985).

11. The ALJ awarded Tower a slight preference because of Mr. Brewer's broadcast experience as general manager of WTCI (AM), Tell City, from 1979 to the present, and we agree with this award. Even, however, if we also agreed with Tower that the ALJ erred in giving Aldridge any credit for broadcast experience gained as an accountant at various broadcast stations, we would not increase Tower's preference in this regard to more than slight. As a comparative factor, broadcast experience has always been "deemed of minor significance," *Policy Statement, supra*, 1 FCC 2d at 396, and "even maximum credit [for broadcast experience] translates into only a minor or slight preference." *Northern Sun Corp.*, 100 FCC 2d 889, 892 (Rev. Bd. 1985); *see Beach Broadcasting Limited Partnership, supra*, at para. 9.

12. As we recently had occasion to explain, the Commission's enhancing factors are not accorded equal weight. *See Swan Broadcasting Limited*, FCC 90R-122, released January 3, 1991, at para. 17. Local residence and minority participation are entitled to the greatest weight, followed by civic participation, female ownership, and, finally, broadcast experience. *Radio Jonesboro, Inc., supra* at 945-946; *Swan, supra*, at paras. 17, 20; *McClenahan Broadcasting, Inc.*, 5 FCC Rcd , para. 18 (Rev. Bd. 1990). In sum, in this case, Aldridge, who has been awarded two more significant preferences, including a substantial one under the "fundamental" licensing consideration of local residence, *see Radio Jonesboro, Inc., supra*, 100 FCC 2d at 945, easily prevails over Tower, whose only preference is for the lesser factor of broadcast experience. *See Beach Broadcasting Limited Partnership, supra*; *Inlet Broadcasting Co.*, 5 FCC Rcd 3192, 3193 (Rev. Bd. 1990); *Colonial Communications, Inc.*, 5 FCC Rcd 1967, 1969 (Rev. Bd.), *recon. denied*, 5 FCC Rcd 3797 (Rev. Bd. 1990). A grant of Aldridge's application will better serve the public interest, convenience, and necessity. In view of the result reached herein, it is unnecessary for us to consider Aldridge's contingent exceptions which argue for further diminution in Tower's comparative posture.[1]

13. ACCORDINGLY,, IT IS ORDERED, That the Contingent Exceptions and Consolidated Supporting Brief, and the Petition for Leave to Intervene, both filed June 25, 1990, by Bayard H. Walters, ARE DISMISSED, and the Motion to Strike Unauthorized Reply, filed July 23, 1990, by Tower Communications, Inc., IS GRANTED; and

14. IT IS FURTHER ORDERED, That the application of Joe L. Aldridge (File No. BPH-871201MA) for a construction permit for a new FM station at Hawesville, Kentucky, IS GRANTED, and the application of Tower Communications, Inc. (File No. BPH-871203MM) IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Joseph A. Marino
Chairman, Review Board

FOOTNOTE

[1] The Board also has before it Contingent Exceptions filed by Bayard H. Walters, a former applicant in this proceeding, who voluntarily dismissed his application, and a Petition for Leave to Intervene by Walters to file his exceptions. It is Walters' position that Tower's principal, Jay Roland Brewer, engaged in the preparation and filing of a "strike" application after the record was closed herein, thereby raising questions as to his qualifications to be a Commission licensee which should be explored in this proceeding. We will dismiss Walters' pleadings. First of all, non-parties, including former applicants such as Walters, have no standing to file exceptions. *See* 47 C.F.R. 1.276(a)(1); *Trustees of the University of Pennsylvania*, 69 FCC 2d 1394, 1430 n. 80 (1978). Secondly, Walters does not satisfy the requirements of 47 C.F.R. 1.223(c), pursuant to which he seeks to intervene, that he show how his participation will assist in resolving the issues presently in the case because a strike issue, of course, has not been tried. *See Golden State Broadcasting Corp.*, 92 FCC 2d 761, 763 (Rev. Bd. 1982). Moreover, in view of our grant to Aldridge, Walters' allegations regarding Tower's basic qualifications are at this stage non-decisional. Finally, we note that Walters has more fully set forth his position in a May 10, 1990 Informal Objection filed with the Commission's Mass Media Bureau (*see* Contingent Exceptions, Exh. 1), which pleading may be revisited by the Commission should the matter become decisional at some future time. *Cf. Touchet Valley Television, Inc.*, 24 FCC 2d 271, 272 (Rev. Bd. 1970) (Intervention request denied where, *inter alia*, applicant sought nearly identical relief from the Commission).

DISSENTING STATEMENT
OF
BOARD MEMBER NORMAN B. BLUMENTHAL

Because I disagree with the "local residence" analysis of the majority decision, *ante* paras. 5-7, and believe that it has almost written "broadcast experience" out of the 1965 *Policy Statement*, I respectfully reject the result in this case.

Tower's sole principal, Jay Roland Brewer, has lived within the proposed service area nearly all his life, in a cross-river community (at most) five miles from Hawesville. Certainly in the wake of *Waters Broadcasting Corp.*, 91 FCC 2d 1260 (1982)(subsequent history omitted), the majority's failure to give due weight to service area residence (and civic activities) is reversible error.

When there is added to *Waters* an entire line of cases, *see ante* para. 6, that holds that where two communities of residence are geographically proximate, local residence credit is nearly equal, the only way Aldridge can prevail is to so minimize Brewer's decade of broadcast experience in the service area to an effective nullity. The *Policy Statement* does no such thing; it expressly recognizes the experience, as has the Board in prior cases too numerous to cite. Indeed, in close cases, even a relatively minor difference in broadcast experience, *simpliciter*, can be decisional. *James and Sharon Deon Sepulveda*, 3 FCC Rcd 9 (Rev. Bd. 1988).

It is embarrassing to inform an aspirant that, at the Review Board level, an individual's life's work in the *very* field in which he seeks an entrepreneural stake is of less importance than a little passing water. It is doubly embarrassing when the law, as I read it, holds otherwise. *See Minority Broadcasters of East St. Louis, Inc.*, 99 FCC 2d 264, 269 (Rev. Bd. 1984)(residence in community cross-river from community of license "counted as equal in significance")(subsequent history omitted).

The *Policy Statement's* balance favors Tower.

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

American Telephone and Telegraph Company — Transmittal Nos. 2726, 2748, and 2839

Revisions to Tariff F.C.C. No. 12

ORDER

Adopted: February 12, 1991; Released: February 13, 1991

By the Chief, Common Carrier Bureau:

1. American Telephone and Telegraph Company (AT&T) has filed Transmittal Nos. 2726 and 2839 to introduce Virtual Telecommunications Network Service (VTNS) Option 78, and Transmittal No. 2748 to introduce VTNS Option 79. Under these options, AT&T provides voice and data communications service among locations in the United States, Puerto Rico, the U.S. Virgin Islands, and specific international locations.

2. Following substantially complete installation, the rates for Option 78 are stabilized for a three-year term. *See* AT&T Transmittal No. 2726 Description and Justification (D&J) at 1-4. The basic charge for Option 78 is $56,100 per month. If a customer orders Option 78 prior to June 1, 1991, the basic charge will be reduced by $10,000 per month for the first three full months of service. *Id.* at 5. Transmittal No. 2839 revises Option 78 by correcting the Rate Schedule F calling capability language to conform with that in other VTNS options. *See* AT&T Transmittal No. 2839, AT&T Tariff F.C.C. No. 12, Section 7.80.2.B.6.

3. Following substantially complete installation, the rates for Option 79 are stabilized for a five-year period. *See* AT&T Transmittal No. 2748 D&J at 1-4. The basic charge for Option 79 is $2,163,100 per month. It will be reduced by $90,000 in the first month of service after the initial service date. *Id.* at 5.

4. US Sprint Communications Company Limited Partnership (Sprint), MCI Telecommunications Corp. (MCI), Williams Telecommunications Group, Inc. (Williams), and Competitive Telecommunications Association (CompTel) filed petitions to reject or suspend and investigate Option 78 on December 3, 1990. Sprint filed a petition against Option 79 on December 12, 1990, while MCI, Williams, and CompTel filed petitions on December 14, 1990. AT&T filed replies to the petitions against Option 78 on December 13, 1990, and Option 79 on December 21, 1990.[1]

5. Sprint contends that Options 78 and 79 raise the same issues as the options remanded by the U.S. Court of Appeals in the *Tariff 12 Remand* [2] and must be reviewed in light of the remand. Sprint Option 78 Petition at 4; Sprint Option 79 Petition at 5; *see also* MCI Option 78 Petition at 2; MCI Option 79 Petition at 2; Williams Option 78 Petition at 2; Williams Option 79 Petition at 2; CompTel Option 78 Petition at 3; CompTel Option 79 Petition at 3. Sprint argues that AT&T has failed to demonstrate that Options 78 and 79 are integrated service packages that are "unlike" their component services and thus has failed to justify the discrimination between these options and AT&T's other services. Sprint Option 78 Petition at 4-7; Sprint Option 79 Petition at 6-8. Further, Sprint contends that even if Options 78 and 79 could qualify as integrated service packages, their rates vary without justification from other options under Tariff 12 and are thus discriminatory. Sprint Option 78 Petition at 7-8; Sprint Option 79 Petition at 8-9. Sprint also argues that Options 78 and 79 impermissibly bundle 800 Service with SDN Service for the application of the Domestic Usage Volume Pricing Plan in violation of Section 201(b) of the Communications Act. Sprint Option 78 Petition at 9-10; Sprint Option 79 Petition at 10-11; *see also* MCI Option 78 Petition at 3; MCI Option 79 Petition at 4; Williams Option 78 Petition at 21-22; Williams Option 79 Petition at 22-23; CompTel Option 78 Petition at 6-7 (also alleging that AT&T is unlawfully leveraging its market power in international services); CompTel Option 79 Petition at 6-7 (also alleging that AT&T is unlawfully leveraging its market power in international services).

6. MCI charges that Options 78 and 79 are comprised of constituent offerings that are available under standard AT&T tariffs and under other Tariff 12 service arrangements, and that AT&T has not provided adequate cost support as required by Section 61.38 of the Commission's Rules, 47 C.F.R. § 61.38, to justify price differences between or among these services. MCI also contends that the Commission will need to review the underlying contracts to determine reliably whether price differences between Options 78 and 79 and other Tariff 12 options are justified. MCI Option 78 Petition at 3-5 & 4 n.5; MCI Option 79 Petition at 3-5 and 5 n.6.

7. Williams argues that Tariff 12 options are not generally available and that AT&T's cost support is inadequate. Williams Option 78 Petition at 14-18; Williams Option 79 Petition at 16-19; *see also* CompTel Option 78 Petition at 7-8; CompTel Option 79 Petition at 8-9. Williams also claims that Tariff 12 packages violate the Commission's resale policy because their customized nature prevents them from being used by resellers. Williams Option 78 Petition at 18-19; Williams Option 79 Petition at 19-20. Williams further contends that the Commission should adopt, or require AT&T to adopt, safeguards to remedy any unlawful discrimination that will occur if Options 78 and 79 take effect. Williams Option 78 Petition at 24-26; Williams Option 79 Petition at 24-26. Williams also alleges that if Tariff 12 is found to be a system of unlawful preferences, Tariff 12 customers could be liable to the Federal Government for treble the preference value under Section 503(a) of the Communications Act, 47 U.S.C. § 503(a). Williams Option 78 Petition at 26-28; Williams Option 79 Petition at 26-28.

8. AT&T replies that the *Tariff 12 Remand* did not call into question the lawfulness of Tariff 12, but rather remanded on the "technical ground" that the Commission had not "turn[ed] square corners of administrative law" in terminating the investigation of the initial options. AT&T Option 78 Reply at 3-7; AT&T Options 79-81 Reply at 4-7. AT&T also denies that Options 78 and 79 unlawfully leverage AT&T's alleged advantage in international services into other markets. AT&T Option 78 Reply at 9 n.*; AT&T Options 79-81 Reply at 9 n.*.

9. In addition, AT&T contends that there is no unreasonable discrimination between the rates in Options 78 and 79 and rates in other VTNS options. AT&T Option 78 Reply at 11-13; AT&T Options 79-81 Reply at 12-14. AT&T also asserts that Tariff 12 options are generally available and claims that a number of options have multiple, unaffiliated customers. AT&T further contends that its cost support is adequate. AT&T Option 78 Reply at 14-15; AT&T Options 79-81 Reply at 18-19. AT&T finally asserts that Section 503(a) of the Communications Act is facially inapplicable to Tariff 12 filings because it deals with a "rebate" of tariffed charges and every Tariff 12 customer pays charges precisely as specified in the tariff. AT&T Option 78 Reply at 16-17; AT&T Options 79-81 Reply at 20-22.

10. The Common Carrier Bureau has reviewed AT&T Transmittal Nos. 2726, 2748, and 2839, the petitions filed by Sprint, MCI, Williams, and CompTel, and related pleadings. We conclude that no compelling argument has been presented that these tariffs are so patently unlawful as to warrant rejection.

11. On October 23, 1990, the U.S. Court of Appeals for the District of Columbia Circuit reversed and remanded the Commission's Order in CC Docket No. 87-568, AT&T Communications, Revisions to Tariff F.C.C. No. 12, Memorandum Opinion and Order, 4 FCC Rcd 4932, *recon. denied*, 4 FCC Rcd 7928 (1989). *See MCI Telecommunications Corp. v. FCC*, No. 89-1382, slip op. (D.C. Cir. Oct. 23, 1990). Although these transmittals do not present new questions that warrant investigation at this time, they could be affected by the Commission decision in the CC Docket No. 87-568 remand proceedings. Accordingly, Transmittal Nos. 2726, 2748, and 2839 take effect subject to the outcome of the remand proceedings in CC Docket No. 87-568.

12. Accordingly, IT IS ORDERED that the petitions to reject, or to suspend and investigate, American Telephone and Telegraph Company Tariff F.C.C. No. 12, Transmittal Nos. 2726 and 2748, filed by US Sprint Communications Company Limited Partnership, MCI Telecommunications Corporation, Williams Telecommunications Group, Inc., and Competitive Telecommunications Association, ARE DENIED.

13. IT IS FURTHER ORDERED that Transmittal Nos. 2726, 2748, and 2839 take effect subject to the outcome of remand proceedings in AT&T Communications, Revisions to Tariff F.C.C. No. 12, CC Docket No. 87-568.

FEDERAL COMMUNICATIONS COMMISSION

Richard M. Firestone
Chief, Common Carrier Bureau

FOOTNOTES

[1] AT&T's reply also addressed the petitions against Options 80 and 81.

[2] *See MCI Telecommunications* Corp. v. FCC, No. 89-1382, slip op. (D.C. Cir. Oct. 23, 1990) *(Tariff 12 Remand)*.

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

National Exchange Carrier Association, Inc. — Transmittal No. 426

Revisions to Tariff F.C.C. No. 5

ORDER

Adopted: February 12, 1991; Released: February 13, 1991

By the Chief, Common Carrier Bureau:

1. On November 16, 1990, National Exchange Carrier Association, Inc., filed Transmittal No. 426, revising its projected revenue requirements for the Special Access pool for January 1 through June 30, 1991. Description and Justification (D&J), at 2-3. On December 3, 1990, MCI Telecommunications Corporation (MCI) filed a petition to reject or, in the alternative, suspend and investigate Transmittal 426. NECA filed its reply on December 13, 1990. The tariff is scheduled to take effect February 14, 1991.

2. According to NECA, the basis for the proposed $9.5 million increase in Special Access rates is the latest actual 1989 cost study data submitted by one large NECA member company, which corrects its method of counting channel terminations for the purpose of jurisdictional allocations.[1] D&J at 1. The correction revised that company's separations data to match the circuit counts being used in its carrier access billing system (CABS). *Id.* at 1 n. 3. This correction resulted in an increase in the number of interstate terminations and a significantly higher portion of total company costs being assigned to the interstate special access revenue requirement. *Id.* at 4. NECA projects that for the July 1, 1990 to June 30, 1991 period Special Access will earn 6.81 percent without the rate increase. *Id.* at 6.

3. MCI presents two arguments against the proposed rate increase. First, MCI asserts that while NECA has supplied the cost of service studies, it has not provided the additional data necessary to evaluate the reasonableness of the proposal required by section 61.38(d) of the Commission's Rules, 47 C.F.R. § 61.38(d). MCI Petition at 2. MCI cites several cost increases which NECA makes without explanation. *Id.* at 3. MCI argues that it would be unfair to access customers to introduce such a study outside of the annual access filing process, where NECA would be required to produce additional back-up cost support material. *Id.* Second, MCI again argues that the Commission's recent audit of NECA casts doubts on the accuracy of all of its data. *Id.* at 3-4.

4. In its reply, NECA argues that it has provided the proper cost support for a mid-course correction. NECA Reply at 2. NECA asserts that the main purpose for providing Section 61.38 cost support is to assist the Common Carrier Bureau in reviewing the tariff filings and to ensure that it may fully discharge the Commission's statutory responsibilities to ascertain the reasonableness of a carrier's rates. *Id.* at 3. NECA argues that it has met that burden by providing PYCOS, an updated test period forecast, and relevant additional working papers. *Id.*

5. NECA further argues that its expense increases are appropriate. According to NECA, the Commission's rules use investment as a major allocator for expenses,[2] and the increase in expenses for both the PYCOS and Test Period are proportionate to the increase in investment. *Id.* at 4-5. Finally, NECA contends that it is inappropriate for MCI to try to connect the Commission audit of NECA with Transmittal 426 since the audit does not involve data underlying this proposal. *Id.* at 5-6.

6. The Common Carrier Bureau has reviewed NECA Transmittal No. 426, the MCI petition, and NECA's reply. We conclude that no compelling argument has been presented that the tariff revisions are so patently unlawful as to warrant rejection, and that no question has been raised that warrants investigation at this time.

7. Accordingly, IT IS ORDERED that the petition against National Exchange Carrier Association, Inc., Tariff No. 5, Transmittal No. 426, filed by MCI Telecommunications Corporation, IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Richard M. Firestone
Chief, Common Carrier Bureau

FOOTNOTES

[1] That company represents approximately 30 percent of the total cost company Special Access revenue requirements.

[2] *See* Sections 36.310(b) and 69.401 of the Commission's Rules, 47 C.F.R. §§ 36.310(b), 69.401.

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

Centel Telephone Companies — Transmittal No. 161

Revisions to Tariff F.C.C. No. 1

MEMORANDUM OPINION AND ORDER

Adopted: February 12, 1991; Released: February 13, 1991

By the Chief, Common Carrier Bureau:

I. INTRODUCTION

1. On November 16, 1990, the Centel Telephone Companies (Centel) filed Transmittal No. 161 to establish nonrecurring charges (NRCs) to recover installation and disconnection costs for special access services. The NRCs are based on historical and projected cost studies filed with Centel's 1990 Annual Access Tariff Filing.

2. Centel has reduced its recurring revenue requirement by the amount of the NRCs through a rate adjustment factor (RAF) developed on the basis of projected NRC demand. RAFs were applied to the recurring special access rates that became effective January 1, 1991. Transmittal 161 is scheduled to become effective February 14, 1991. For the reasons discussed below, we reject Transmittal 161.

II. PLEADINGS

3. On December 3, 1990, MCI Telecommunications Corporation (MCI) filed a petition to reject or, alternatively, to suspend and investigate Transmittal 161. MCI opposes the transmittal on the grounds that Centel's cost support does not contain enough information to comply with Section 61.38 of the Commission's Rules, 47 C.F.R. § 61.38, because Centel has not provided an historical cost of service study. MCI Petition at 2.

4. MCI also argues that Centel's labor cost calculations lack sufficient detail to determine the reasonableness of these costs. *Id.* at 4. Specifically, MCI claims that Centel has provided no support data regarding how the labor hours were calculated, and alleges that Centel's labor times and rates lead to excessively high NRCs compared to LECs in states with similar labor costs. It further complains that Centel has provided too little information showing why Centel's charges are generally higher than the charges of other LECs, and in particular the Bell Operating Companies (BOCs), operating in the same area. *Id.* at 4. In addition, MCI charges that Centel of Illinois (Centel-IL) appears to have excessive labor costs. *Id.* at 5.

5. MCI argues further that Centel has not adequately supported the demand used to determine the revenue impact of this service. *Id.* at 3. MCI claims that without this information, neither the Commission nor MCI can judge the reasonableness of the developed RAF, or the resulting recurring rates. *Id.* at 3.

6. In its reply, filed December 13, 1990, Centel responds that no additional cost of service studies need be filed because the carrier had previously received special permission from the Bureau to rely on the historical and projected cost study data filed with Centel's Annual 1990 Access Tariff Filing.[1] Centel Reply at 3.

7. Centel further maintains that its cost support contains a description of each job function and a list of labor hours required to complete each function that goes into its NRCs. *Id.* at 6. Those hours were multiplied by the current state-specific labor rate applicable for the type of function performed. Centel describes the origin of its labor rates for each of its jurisdictions. *Id.* at 7. It also explains that Centel-IL's labor rates were obtained from the company's current labor contract and that an average rate per function was developed from this information. *Id.* at 8.

8. Finally, Centel contends that its cost support contains the demand projections required for the NRC filing. *Id.* at 3. It maintains that those demand levels were forecast based on the historical experience of each state adjusted for known factors that might affect the accuracy of historical performance. Centel then explains the method of obtaining the demand level for its companies on a state-by-state basis. *Id.* at 4-6.

III. DISCUSSION

9. The tariff language in Transmittal 161 is ambiguous in violation of the Commission's Rules. Section 61.54(j) of the Commission's Rules, 47 C.F.R. § 61.54(j), requires tariff language to be clear and unambiguous and to specify all general rules, regulations, exceptions or conditions affecting a particular item or rate. Centel's tariff fails to satisfy these requirements.

10. The tariff language is phrased in terms of the installation of "circuits," but fails to define a circuit as used therein. Although there are many possible points of connection in a typical circuit, there is no way to tell how many are included in "circuits" as used in the tariff, since Centel fails to define a "circuit." For example, where two points are served by the same central office, it is unclear whether the term circuit includes the two channel terminations involved. Further, where two points are served by two different central offices, it is unclear whether the term includes two channel terminations and the mileage between the two central offices. In the case of a multipoint service, it is unclear whether the term circuit includes all the points involved as well as any bridging that may be included in the hub central office.

11. In addition, the tariff language contains no information as to how installation charges will be assessed. The need for such clarifying tariff language is necessary because under the tariff for High Capacity DS1 service it is not clear which of two potentially applicable installation charges the customer would pay, and there is a significant (and unexplained) cost differential between the two. All High Capacity DS1 service would connect to a central office, yet one installation charge is labeled for "Central Office" connections and is assigned a relatively low charge, while the other, labeled for "Customer Premises" connections is assigned a relatively high charge. There-

fore, it is impossible to tell from the tariff language which charge applies. Further, Centel provides no justification for the cost disparity between the two services.

12. In addition to the basic charges discussed in the preceding paragraph for Central Office and Customer Premises, the tariff also contains a separate set of charges for "Each additional circuit" to each point. The absence of a definition of circuit, coupled with the further ambiguity regarding High Capacity service, make it impossible to determine how these charges relate to each other. Because it cannot be determined from the tariff how all the differently priced charges for High Capacity DS1 service installations and disconnections will be applied, there is a potential for unlawful discrimination. *See* Section 202(a) of the Communications Act, 47 U.S.C. § 202(a).

IV. CONCLUSION

13. Centel's tariff violates Section 61.54 in that it fails to define terms used therein, fails to specify how installation and disconnection charges will be assessed, and fails to specify the conditions affecting the application of basic and additional circuit High Capacity DS1 charges with respect to customer premises as opposed to central office installations. The ambiguities are sufficient to warrant rejection of the tariff.

V. ORDERING CLAUSES

14. Accordingly, IT IS ORDERED that Centel Telephone Companies, Tariff F.C.C. No. 1, Transmittal No. 161 IS REJECTED.

15. IT IS FURTHER ORDERED that the petition to reject or to suspend and investigate Centel Telephone Companies, Tariff F.C.C. No. 1, Transmittal No. 161, filed by MCI Telecommunications Corporation IS GRANTED to the extent provided herein.

FEDERAL COMMUNICATIONS COMMISSION

Richard M. Firestone
Chief, Common Carrier Bureau

FOOTNOTE

[1] *See* Centel Telephone Companies, Special Permission No. 90-1075, Oct. 4, 1990.

Before the
Federal Communications Commission
Washington, D.C. 20554

In re Applications of

CONTEL CORPORATION,
Transferor,

and File No. ENF-90-11

GTE CORPORATION,
Transferee,

For Consent to the Transfer of
Control of Authorizations Held by
Contel Subsidiaries.

MEMORANDUM OPINION AND ORDER

Adopted: February 12, 1991; Released: February 15, 1991

By the Commission:

I. INTRODUCTION

1. On September 20 and October 9, 1990, GTE Corporation (GTE) and Contel Corporation (Contel) filed a series of applications pursuant to Sections 214(a) and 310(d) of the Communications Act, 47 U.S.C. § 214(a), 310(d), for consent to transfer control of authorizations held by Contel subsidiaries in connection with the proposed merger of GTE and Contel (Applicants).[1] Applicants also seek a declaration under Section 212 of the Act that, upon consummation of the proposed merger, they will be "commonly-owned carriers" within the meaning of Part 62 of the Commission's Rules, 47 C.F.R. § 62.1, 62.2(c).[2] For reasons discussed below, we conclude that the proposed transaction will serve the public interest and that the applications should be granted.

II. BACKGROUND AND TERMS AND CONDITIONS OF THE MERGER

2. GTE is a holding company incorporated in New York with its corporate headquarters in Stamford, Connecticut. Through its subsidiaries, GTE has three major business segments: Telephone Operations, Telecommunications Products and Services, and Electrical Products. The GTE Telephone Operations Group's local exchange telephone companies (LECs) provide many types of communications systems, products, and services, ranging from local telephone service for the home or office to highly complex voice and data services for industry and national defense. GTE Telecommunications Products and Services develops and markets a wide range of telecommunications systems, products, and services through its information services, mobile communications, satellite, and government systems operations. GTE Electrical Products is a worldwide manufacturer of lighting products for residential, commercial and industrial use. The group also manufactures and markets precision materials and custom engineering parts, components and materials for a broad range of industries.

3. Contel is a holding company incorporated in Delaware with its corporate headquarters in Atlanta, Georgia. Through its subsidiaries, Contel provides domestic and international telecommunications services, including local telephone, mobile cellular, and satellite services. Contel is organized into four business sectors: Telephone Operations, Cellular Communications, Federal Systems, and Information Systems. Contel's Telephone Operations Sector consists of telephone operating companies providing local exchange telephone services. This sector also provides telephone equipment and supply procurement. The Cellular Communications Sector provides mobile and portable telephone service. The Federal Systems Sector provides telecommunications and information systems and services to government agencies in the United States and in international markets. Finally, the Information Systems Sector includes American Satellite Company d/b/a/ Contel ASC (Contel ASC), which provides domestic and international voice, data, and video satellite transmission services; Contel Customer Support, which provides engineering, support, and maintenance services for voice and data telecommunications systems and networks; Contel IPC, which provides specialized communications equipment used primarily by securities and commodities traders at financial institutions; and Contel Office Communications, which provides voice and data communications systems for tenants of office complexes.

4. Under the Applicants' Merger Agreement and Plan of Reorganization (dated August 7, 1990) (Merger Agreement),[3] Contel will become a wholly-owned subsidiary of GTE. Following the merger, the licenses and authorizations now held by Contel's subsidiaries will continue to be held by those subsidiaries.

5. At the effective time of the merger (the Effective Time), all shares of Contel Common Stock which were issued and outstanding prior to the Effective Time will be cancelled and will be converted into the right to receive 1.27 shares of GTE Common Stock. In addition, outstanding options to purchase shares of Contel Common Stock will be cancelled, and the holders of these cancelled options will receive, for each share of Contel Common Stock for which an option was held, options to purchase 1.27 shares of GTE Common Stock.

6. Applicants state that the Merger Agreement is structured so that there will be continuity in the service afforded to the public by both GTE and Contel. GTE has agreed in the Merger Agreement to amend its By-laws to cause the authorized number of its Directors to be increased to 18 from the current 17 directors. The Merger Agreement contemplates that 13 of these Directors will be selected from and designated by GTE's Board of Directors immediately prior to the Effective Time, and that five of these Directors will be selected from and designated by Contel's Board of Directors immediately prior to the Effective Time.

7. The closing of the merger is contingent on several conditions being satisfied, including approval of the transaction by the shareholders of both companies,[4] grant of all necessary approvals by this Commission, grant of approval by the Department of Justice[5] and grant of all necessary approvals by state or foreign regulatory bodies pursuant to applicable laws or regulations.

8. Applicants state that the proposed merger does not raise any anticompetitive concerns[6] and would serve the public interest by strengthening their ability to provide high quality telecommunications services to the public. Applicants further state that the merger will support significant improvements in telephone and cellular operations from the larger capital base that would result; result in better and more efficient service for various segments of their existing satellite operations; and strengthen their ability to undertake significant research initiatives.[7]

9. Applicants state that with respect to their satellite operations, the relevant product market is domestic interexchange services, including both satellite and terrestrial services and that their satellite businesses, whether viewed alone or with their other interexchange activities, will account for a *de minimis* share of domestic interexchange revenues.[8] Applicants note that the proposed transaction, measured by the Herfendahl-Hirschman Index, results in an increase of less than one point, which is far below any level considered by the Department of Justice as likely substantially to lessen competition.

III. COMMENTS

10. On October 30, 1990, we gave public notice of the applications and invited comments from interested parties.[9] Comments were timely filed in response to such notice by the American Association for Counseling and Development (AACD), the California Cable Television Association (CCTA), the Public Utilities Commission of the State of California (the CPUC), and by Telepuerto San Isidro d/b/a TRICOM (TRICOM).

11. The CPUC notes that GTE and Contel also have applied to it for approval of the proposed merger.[10] The CPUC advises that it will have no position on the proposed merger, which needs its approval under California law, until the proceeding before it is concluded and its final decision is issued. It requests that we take note of the related application proceeding pending before it, and to the extent possible, take its findings and conclusions into account when the CPUC's final decision is issued. However, the CPUC has not requested that we defer action until its decision is reached and issued. Nor has the CPUC requested that any grant of the subject applications be made conditional, rather than final, pending issuance of the CPUC's decision.

12. TRICOM, a telephone company of the Dominican Republic, filed comments in opposition to the proposed transaction. Alternatively, TRICOM suggests that certain conditions be placed on the proposed transfer of control "to insure that the merger does not enure to the detriment of the U.S. domestic subscribers based on the anticompetitive behavior of its corporate members which GTE has supported to date," citing the conduct of CODETEL, a GTE wholly-owed LEC subsidiary in the Dominican Republic.[11] According to TRICOM, the proposed merger would give GTE a "very dominant market position" in domestic cellular, domestic satellite and radio telephone services and in rural telephony.[12]

13. Applicants characterize TRICOM's allegations as relying on "purely speculative predictions of domestic anticompetitive behavior which are based on facially unfounded allegations of foreign anticompetitive actions...." Further, Applicants allege that TRICOM lacks standing to challenge the merger since it makes no showing of how its Dominican Republic-based operation will be injured by the merger.[13] Contrary to TRICOM's contention that the proposed merger would yield a "very dominant market position" for GTE in the provision of domestic cellular services, domestic satellite services, and radio telephone services and rural telephony, Applicants assert that no significant increase in GTE's market share or market power would result in the relevant markets as defined by the Commission.[14] Applicants note that "[u]nder the industry structure established by the Commission, the only relevant markets for the provision of domestic cellular services are local."[15] Applicants also note that this Commission has provided for two facilities-based cellular service carriers in each local cellular market and further note that, before their merger is effected, Applicants will have divested the lesser of their two interests in the cellular markets where they currently compete, *i.e.*, the Lexington, Kentucky and Savannah, Georgia MSAs.[16] Applicants further assert that insofar as domestic satellite services are concerned, "[t]he relevant market is domestic interexchange services, which include both satellite and terrestrial services" and that after their merger, the combined GTE-Contel share of that market would be only 0.5%.[17] Furthermore, Applicants assert that there can be no anticompetitive effects from the proposed merger on radio telephone services and rural telephony because the relevant geographic markets for those services are local and their service territories do not overlap.[18]

14. CCTA believes the proposed merger raises important competitive issues that this Commission must address before passing judgment on the merger. In support thereof, CCTA attached a copy of its protest filed against the Applicants' related application with the CPUC. In the state proceeding, CCTA states that its membership, as potential future competitors of Applicants in the delivery of broadband services to residences and businesses, is concerned with the potential cross-subsidization between the merged entity's local exchange telephone business and any future cable television service provided by the entity.[19] CCTA urged the CPUC to determine whether the merged entities should be regulated under an incentive regulation formula.[20]

15. AACD asks that final action on the above-captioned applications be held in abeyance until the Commission acts on a pending informal complaint that AACD filed against Contel ASC on December 7, 1989.[21] Applicants assert, *inter alia*, that AACD's alleged grievance against Contel ASC is unrelated to the pending applications,[22] and that AACD's contentions are based on the so-called *Jefferson Radio* doctrine, which this Commission has explicitly refused to extend to common carrier transfer-of-control applications such as the subject applications.[23] Applicants state that to the extent AACD has any grievance against Contel ASC, it may still be pursued against Contel ASC in any appropriate forum following the merger.[24]

IV. DISCUSSION

16. Sections 214(a) and 310(d) of the Act require that we find that the public interest, convenience, and necessity will be served by the transfer of control of a company holding Section 214 certificates and radio licenses. Subsumed therein is the requirement that we review, as may be appropriate, the citizenship, character, financial, tech-

nical and other qualifications of the transferee applicant.[25] We conclude that GTE, a long-term Commission licensee and interstate and international communications carrier, satisfies the Commission's threshold qualification requirements and has the financial wherewithal and technical expertise to provide service consistent with the public interest.

17. Section 7 of the Clayton Act proscribes the acquisition of the stock, other share capital, or assets of a company by another company "where in any line of commerce in any section of the country" the effect of such acquisition may be "substantially to lessen competition, or to tend to create a monopoly."[26] The legislative history of Section 7 "illuminates congressional concern with the protection of competition, not competitors, and its desire to restrain mergers only to the extent that such combinations may tend to lessen competition." *Brown Shoe Co. v. United States*, 370 U.S. 294, 320 (1962). Section 11 of the Clayton Act empowers us with direct enforcement authority over Section 7 in the case of common carriers.[27] The courts have construed this to mean that the requirements of Section 11 and the applicable provisions of the Communications Act "are satisfied when the Commission seriously considers the antitrust consequences of a proposal and weighs the consequences with other public interest factors."[28] In other words, we are required to consider anticompetitive consequences as one part of our public interest calculus.[29]

18. We note initially that the Department of Justice had an opportunity to review the subject applications as well as filings made pursuant to the Hart-Scott-Rodino Antitrust Improvements Act of 1976, 15 U.S.C. 18(a). It did not object to the proposed acquisition or otherwise question its lawfulness.[30]

19. In stating its approval of the proposed merger pursuant to the GTE Consent Decree,[31] the Department of Justice noted that the transaction "would not have any significant adverse competitive effect in any relevant market and would not interfere with the implementation of the GTE Decree."[32] The Department's approval "does not authorize GTE to offer services that are prohibited by the decree or to engage in activities that are prohibited.... Accordingly, GTE must ensure that any Contel service or activity that would violate the decree receives a waiver or ceases before or upon consummation of the merger."[33]

20. On the record before us in this proceeding, we cannot find that the proposed merger would adversely affect our policies encouraging the development of a competitive, innovative and excellent American communications system. Insofar as domestic satellite services are concerned, Applicants correctly note that the relevant market is domestic interexchange services, both satellite and terrestrial. *See International Business Machines Corp.*, 5 FCC Rcd 1655, 1656 (Com. Car. Bur. 1990); *Communications Satellite Corp.*, 2 FCC Rcd 7202, 7205 (Com. Car. Bur. 1987), *aff'd*, 3 FCC Rcd 7277 (1988); *Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Therefor* (Fourth Report and Order), 95 FCC 2d 554, 569 (1983). GTE's and Contel's combined share of the domestic interexchange market, only 0.5%, is so small that the proposed combination would not possess market power in interstate communication services or be of concern under Section 7 of the Clayton Act. In any event, even if we were to look at the domestic satellite market, we perceive no anticompetitive effect from the proposed merger. Even with Contel's satellites, GTE would hold authorizations to operate satellites from 15 orbital locations (both C-band and Ku-band), or less than one-third of the 48 orbital locations that are assigned.[34] Nor can we conclude that the proposed transaction would be inconsistent with our cellular radio licensing policies. As previously noted,[35] Applicants have stated that they will divest the lesser of their two interests in the cellular markets where they currently compete, before they consummate their merger. Our Order herein is expressly conditioned on Applicants having so divested in accordance with their representations.[36]

21. CCTA's comments attached copies of two pleadings which it had filed with the CPUC which addressed issues of state law. Neither pleading alleges that any provision of the Communications Act or any other federal law or policy is being, or would be, violated. CCTA's arguments against this merger are centered in the fact that Applicants are subject to two different forms of regulation by the State of California in their provision of *intrastate services*. Any such regulatory differential is being addressed in the proceeding before the CPUC which has the authority to mitigate any anticompetitive intrastate effects of the merger before approving it.[37]

22. We need not address in detail AACD's comments, as supplemented,[38] because the merger will not affect whatever relief it may be entitled to, if any, through the Commission's complaint processes. Because this proceeding involves the transfer of control of Contel ASC rather than the sale of its corporate assets, Contel ASC remains liable for any wrongful acts which it may have committed. In addition, regardless of whether Contel ASC is found liable or not in any complaint proceeding, our analysis of the anticompetitive implications of the merger would not be impacted.

23. Finally, TRICOM alleges, *inter alia*, that GTE's wholly-owned subsidiary, CODETEL, has denied TRICOM access to CODETEL's bottleneck facilities and taken various other anticompetitive actions to maintain its dominant position as a provider of telecommunications services in the Dominican Republic. We are concerned by TRICOM's allegations and by the fact that the Dominican Republic is the eighth largest recipient of U.S. International Message Telephone Service (IMTS) settlements payments.[39] We nevertheless conclude that these allegations, even if true, would not be sufficient to warrant denial of this merger application. We also see no need to impose the conditions requested by TRICOM[40] in light of the fact that such issues would be more properly addressed, in our view, in the context of the Commission's review of our regulation of the provision of international telecommunication services to and from the United States.[41]

V. CONCLUSION

24. We conclude that the proposed merger should enable Applicants to effect substantial public interest benefits. None of the entities commenting in this proceeding disputed Applicants' showing in this regard.[42] We perceive no anticompetitive or antitrust consequences resulting from the proposed merger of GTE and Contel. We find that GTE is legally, technically, financially and otherwise qualified to operate Contel's telecommunications licensees and that grant of the subject applications for consent to transfer control of Contel to GTE will serve the public interest.

VI. ORDERING CLAUSES AND CERTIFICATE

25. Accordingly, IT IS ORDERED that the subject applications of Contel Corporation and GTE Corporation for consent to the transfer of control of authorizations held by Contel subsidiaries ARE GRANTED subject to compliance with paragraphs 28 and 29, below.

26. IT IS FURTHER ORDERED that Applicants' request for a declaratory ruling under Section 212 of the Communications Act, 47 U.S.C. 212, that upon consummation of the proposed merger, GTE and Contel will be "commonly owned carriers" within the meaning of Section 62.2 of the Commission's Rules, 47 C.F.R. 62.2, IS GRANTED.

27. IT IS FURTHER ORDERED that Applicants' request for an exemption from the "cut-off" requirements pursuant to Section 22.23(g)(3) of the Rules, 47 C.F.R. 22.23(g)(3), IS GRANTED.

28. IT IS FURTHER ORDERED that GTE shall divest its interest in the wireline cellular licensee in the Lexington-Fayette, Kentucky MSA (Market No. 116B) before the proposed merger is consummated.

29. IT IS FURTHER ORDERED that Contel shall divest its interest in the wireline cellular licensee in the Savannah, Georgia MSA (Market No. 155B) before the proposed merger is consummated.

30. IT IS FURTHER ORDERED that TRICOM's request that the subject applications be denied or, in the alternative, that certain conditions be placed on grant of the applications, IS DENIED.

31. IT IS FURTHER ORDERED that the Supplemental Comments filed by AACD on December 21, 1990 ARE ACCEPTED as part of the record in this proceeding.

32. IT IS FURTHER ORDERED that AACD's request that action on the subject applications be deferred indefinitely pending resolution of its pending informal complaint (File No. IC-90-01371) IS DENIED without prejudice to any action that the Commission may find appropriate in that proceeding or withrespect to any formal complaint that AACD may file concerning that dispute.

33. IT IS CERTIFIED, pursuant to Section 214(c) of the Communications Act, 47 U.S.C. § 214(c), that neither the present nor future public convenience and necessity will be adversely affected by grant of the subject applications.

34. IT IS FURTHER ORDERED that this Order IS EFFECTIVE upon its adoption.

FEDERAL COMMUNICATIONS COMMISSION

Donna R. Searcy
Secretary

FOOTNOTES

[1] The authorizations for which transfer of control is requested were specified in a Public Notice released October 30, 1990, 5 FCC Rcd 6354, (Public Notice) which is hereby incorporated by reference. Section 214(a) provides, in pertinent part, that no carrier shall acquire any line unless it first obtains from the Commission a certificate that the present or future public convenience and necessity require such acquisition. Section 310(d) provides generally that no radio construction permit or license shall be transferred without an application to the Commission and its finding that the public interest, convenience and necessity will be served.

[2] File No. EID-672. Under Section 212 of the Act, no person may hold the position of officer or director in more than one carrier subject to the Act unless duly authorized to do so by the Commission. The regulations set forth in Part 62 of our rules interpret or apply Section 212 of the Act.

[3] A copy of Applicants' Merger Agreement can be found in Exhibit No. 2 of Attachment A to their Application for consent to transfer control of domestic Section 214 authorizations (File No. W-P-C-6640).

[4] Applicants' respective shareholders overwhelmingly approved the proposed merger on December 11, 1990. Reply Comments of GTE Corporation and Contel Corporation filed December 18, 1990 (Applicants' Reply) at 16.

[5] *See* Paragraph VI(A) of the Consent Decree in United States v. GTE Corp., 1985-1 Trade Cas. (CCH) 66,355, at 64,776 (D.D.C. 1985). On January 8, 1991, the Department of Justice expressly stated its approval of the proposed merger. *See* para. 19, *infra*.

[6] Prior to consummation of the proposed merger, GTE has agreed to divest its 42% interest in the wireline cellular licensee in the Lexington, Kentucky MSA where Contel controls the nonwireline licensee. Similarly, Contel has agreed to divest its 38% percent in the wireline licensee in the Savannah, Georgia MSA where GTE controls the nonwireline licensee. *See* FCC Application, Vol. I at 13 (filed on September 20, 1990) (Application).

[7] *Id.* at 6-17.

[8] GTE's and Contel's 1989 revenues from both terrestrial and satellite interexchange telecommunications constituted market shares of 0.2% and 0.3%, respectively. GTE's 0.2% share does not include revenues from US Sprint, in which GTE has a 19.9% limited partnership interest. Even if a share of US Sprint sales proportionate to GTE's investment were attributed to GTE, its market share would be only 1.8%. *Id.* at 15.

[9] *See* note 1, *supra*.

[10] In the Matter of the Joint Application of GTE Corporation and Contel Corporation, CPUC Application Docket No. A.90-09-043 (filed September 14, 1990).

[11] Comments of Telepuerto San Isidro, S.A. d/b/a TRICOM, on GTE Purchase of Contel or in the Alternative, Petition to Deny, at 1-2. TRICOM asserts that GTE has passively acquiesced in or actively sponsored anticompetitive behavior by CODETEL. *Id.* at 2. According to TRICOM, CODETEL has denied TRICOM access to bottleneck facilities and has taken various other anticompetitive actions to maintain its dominant position as a provider of telecommunications services in the Dominican Republic. *Id.* at 4-5. TRICOM seeks to condition any grant of the subject applications on Applicants entering into a Consent Decree with the Commission which asserts, *inter alia*, that: "[a]s a matter of corporate policy GTE will assure the compliance of all of its subsidiaries with the United States Antitrust Laws; and that....[u]pon complaint by any affected party, GTE will investigate the behavior of its subsidiaries and report to the Commission within 15 days of the complaint...." *Id.* at 8-9.

[12] TRICOM Comments at 6-7.

[13] Applicants' Reply at 7-8.

[14] *Id.* at 9.

[15] *Id.*, *relying on* Metromedia Co., 1 FCC Rcd 1227, 1231 (Com. Car. Bur. 1986) and Cellular Lottery Rulemaking, 98 FCC 2d 175, 194-95 (1984) (cellular service is a local exchange radio service under Sections 2(b) and 221(b) of the Communications Act).

[16] Applicants' Reply at 9.

[17] *Id.* at 10.

[18] *Id.*

[19] Comments of the California Cable Television Association, Exhibit A at 2.

[20] *Id.* at 4. It appears that the CPUC regulations governing GTEC are or will be based on incentive regulation whereas CPUC regulations currently governing Contel of California, Inc.'s operations are based on rate of return regulation. *Id.*

[21] File No. IC-90-01371. That complaint seeks monetary relief for the termination of a satellite common carrier service provided by Contel ASC that AACD alleges was improperly terminated in the middle of a nationwide teleconference.

[22] Applicants assert not only that such alleged grievance is irrelevant but that it is a "stale *private* dispute". (emphasis added) Applicants' Reply at 7.

[23] *Id.* at 3-7. As Applicants note, under the *Jefferson Radio* doctrine broadcast licensees whose licenses have been designated for a revocation hearing or whose renewal applications have been designated for hearing on basic qualification issues are generally not allowed to transfer control of those licenses until the Commission has determined that the licensee is qualified to retain its broadcast authorization. Jefferson Radio Co. v. FCC, 340 F.2d 781, 783 (D.C. Cir. 1964). Applicants also rely on Cablecom-General, Inc., 87 FCC 2d 784, 786-92 (1981); Coalition for the Preservation of Hispanic Broadcasting v. FCC, 893 F.2d 1349 (D.C. Cir. 1990), *reh'g en banc ordered* (Mar. 27, 1990); Prestwood Communications, 4 FCC Rcd 6805 (Mobile Services Div. 1989); MMM Holdings, Inc., 4 FCC Rcd 6838, 6845 (Com. Car. and Mass Med. Bur. 1989), *aff'd*, 4 FCC Rcd 8243 (1989) (merits of a pending formal complaint against a subsidiary of a prospective transferor in the context of a transfer of control application not addressed because the pending formal complaint proceeding is "the proper mechanism for addressing those concerns").

[24] Applicants' Reply at 5. On January 29, 1991, Williams Telecommunications Group, Inc. (WTG) filed a motion seeking waiver of our rules and acceptance of a late-filed "Limited Petition to Deny" concerning the subject domestic Section 214 authorizations of Contel subsidiaries. WTG subsequently withdrew its motion and petition on February 4, 1991.

[25] *See* 47 U.S.C. § 308(b), 310(d).

[26] 15 U.S.C. 18.

[27] *Id.* at 21.

[28] United States v. FCC, 652 F.2d 72, 88 (D.C. Cir. 1980).

[29] United States v. FCC, 652 F.2d at 87, *citing* Denver and Rio Grande W.R.R. v. United States, 387 U.S. 485 (1967).

[30] We have independently reviewed the material filed pursuant to the Hart-Scott-Rodino Act and have concluded that no basis is provided therein to deny the proposed transaction.

[31] *See* n.5, *supra*.

[32] Letter from Constance K. Robinson to C. Daniel Ward (Jan. 8, 1991) at 1. (Justice letter)(copy attached to letter from Samuel F. Shawhan, Jr. and James E. Graf, II to Donna R. Searcy (Jan. 10, 1991)).

[33] Justice Letter at n.1.

[34] Satellites assigned to several of these locations have not yet been launched. If in-orbit satellites only are considered, GTE would be operating from 12 of the 32 locations that are currently occupied. Moreover, other satellite operators such as Hughes Communications Galaxy, Inc., which has 12 assigned locations and is currently operating from 7, and GE American Communications, Inc., which has 8 assigned locations and is currently operating from 6, provide competitive alternatives.

[35] *See* para. 13, *supra*.

[36] *See* paras. 25, 28 and 29, *infra*.

[37] We note that, because the CPUC has not yet ruled on the proposed merger insofar as California intrastate communications are affected, we are unable to take its findings into account in issuing this Order. Our action here, however, does not preclude any appropriate action the CPUC may consider in applying California law to the provision of intrastate services.

[38] Supplemental Comments filed by AACD on December 21, 1990, at 4. These supplemental comments were filed after the period for reply comments had closed and AACD requests that they be considered to correct the record in this proceeding, noting that, contrary to Applicants' assertion that AACD failed to timely prosecute its complaint, its informal complaint is still pending and that it intends to continue to pursue the FCC complaint process against Contel ASC.

[39] In 1988, the Dominican Republic received $61.9 million in net IMTS settlements payments. *See* Regulation of International Accounting Rates, Notice of Proposed Rulemaking, 5 FCC Rcd 4948 (1990) at Appendix A. In 1989, this rose to $75.3 million. *See* "Trends in the International Communications Industry, 1975-1989," Industry Analysis Division, Common Carrier Bureau, FCC (October 24, 1990) at 43.

[40] *See* n.11, *supra*.

[41] *See, e.g.*, Regulation of International Accounting Rates, 5 FCC Rcd 4948 (1990).

[42] *See, e.g.*, para. 8, *supra*.

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

Revision of ARMIS Report
43-04 (The Access Report)

ORDER

Adopted: February 4, 1991; Released: February 19, 1991

By the Chief, Common Carrier Bureau:

I. INTRODUCTION AND BACKGROUND

1. This *Order* adopts minor technical changes to the ARMIS Report 43-04 (Access Report) for the reporting year 1990. These changes are in response to industry suggestions and to staff analysis of previously filed reports.

2. The Access Report, which is filed annually by all local exchange carriers earning $100 million or more during the reporting year, was adopted by the Chief, Common Carrier Bureau, on May 11, 1989,[1] pursuant to authority delegated in the *ARMIS Order* [2]. The report provides regulated cost and operating data by study area with the data separated between the state and interstate jurisdictions pursuant to Part 36 [3] and with the interstate data further allocated to tariff access elements pursuant to Part 69.[4]

II. DISCUSSION

3. We have compiled the Access Report revisions that we are adopting in the attached Appendix I. We have also received informally other suggested changes, and we will address those at a later time. The revised Access Report filing requirements, instructions, and technical specifications appear in Appendix II.

4. The action contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to impose a new or modified information collection requirement on the public. Implementation of any new or modified requirement is subject to approval by the Office of Management and Budget as prescribed by the Act.[5]

5. The attached revisions to the Access Report are adopted pursuant to authority delegated to the Bureau in paragraph 58 of the *ARMIS Order* and Section 0.291 of the Commission's Rules. Because these changes are minor in nature, in most cases made pursuant to the recommendations of the carriers filing the reports, compliance with the notice and comment procedures of the Administrative Procedure Act is unnecessary. *See* 5 U.S.C. Section 553(B).

III. ORDERING CLAUSE

6. Accordingly, IT IS ORDERED, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. Section 154(i), that the Access Report IS REVISED, as set forth in the Appendices hereto.

FEDERAL COMMUNICATIONS COMMISSION

Richard M. Firestone
Chief, Common Carrier Bureau

FOOTNOTES

[1] *See* Automated Reporting Requirements for Certain Class A and Tier 1 Telephone Companies (Parts 31, 43, 67, and 69 of the FCC's Rules), 4 FCC Rcd 4239 (Com. Car. Bur. 1989).

[2] Automated Reporting Requirements for Certain Class A and Tier 1 Telephone Companies (Parts 31, 43, 67, and 69 of the FCC's Rules), 2 FCC Rcd 5770 (1987) (*ARMIS Order*), *recon.* 3 FCC Rcd 6375 (1988).

[3] Title 47--Telecommunication, Chapter I--Federal Communications Commission, Subchapter B--Common Carrier Services, Part 36--Jurisdictional Separations Procedures; Standard Procedures for Separating Telecommunications Property Costs, Revenues, Expenses, Taxes and Reserves for Telecommunications Companies.

[4] Title 47--Telecommunication, Chapter I--Federal Communications Commission, Subchapter B--Common Carrier Services, Part 69--Access Charges.

[5] The Office of Management and Budget has approved the current collection of information requirement. The OMB control number for this collection of information requirement is 3060-0395.

APPENDIX I

The specific changes to the Access Report are:

Column (h) is deleted.

Row 999 - This row is added to accommodate entry of Part 36 direct assignment of general support facilities.

Row 1004 - This row is added to accommodate entry for the total of directly assigned and allocated general support facilities.

Row 1130 - Column (r) is opened.

Row 1133 - Column (r) is opened.

Row 1135 - Column (r) is opened.

Row 1144 - Columns (j) and (r) are opened.

Row 1166 - Columns (l), (n) and (p) are opened.

Row 1168 - Columns (l), (n) and (p) are opened.

Row 1219 - Column (r) is opened.

Row 1394 - Columns (e), (g) and (i) are opened.

Row 1419 - This row is added to accommodate entry of Part 36 direct assignment of Other Information Origination/Termination Equipment.

Row 1426 - N/A is inserted in column (f).

Row 1524 - Columns (e) and (g) are opened.

Row 2009 - Column (o) is opened.

Row 2195 - The category is blank and N/As are inserted in columns (b) through (r).

Row 2196 - The category is blank and N/As are inserted in columns (b) through (r).

Row 2197 - The category is blank and N/As are inserted in columns (b) through (r).

Row 2198 - The category is blank and N/As are inserted in columns (b) through (r).

Row 2199 - The category is blank and N/As are inserted in columns (b) through (r).

Row 2200 - The category is blank and N/As are inserted in columns (b) through (r).

Row 2201 - The category is blank and N/As are inserted in columns (b) through (r).

Row 2201 - The category is blank and N/As are inserted in columns (b) through (r).

Row 2202 - The category is blank and N/As are inserted in columns (b) through (r).

Row 2230 - The category is retitled "CWC 36/65/69".

Row 2250 - The category is retitled "FCC Inv Adj 65" and column (k) is opened.

Row 3030 - Column (l) is opened.

Row 3031 - Column (l) is opened.

Row 3070 - N/A is inserted in column (q).

Row 3071 - N/A is inserted in column (q).

Row 3110 - Columns (l) and (o) are opened.

Row 3111 - Columns (l) and (o) are opened.

Row 3170 - Columns (e), (g), (i), (m) and (o) are opened.

Row 3171 - Columns (e), (g), (i), (m) and (o) are opened.

Row 3180 - Columns (e), (g), (i), (l) and (o) are opened.

Row 3181 - Columns (e), (g), (i), (l) and (o) are opened.

Row 3300 - Column (l) is opened.

Row 3301 - Column (l) is opened.

Row 3332 - This row is added to accommodate entry of Other Net Current Deferred Operating Income Taxes.

Row 3370 - Column (l) is opened.

Row 3371 - Column (l) is opened.

Row 3402 - This row is added to accommodate entry of Other Net NonCurrent Deferred Operating Income Taxes.

Row 3421 - The category is retitled "FCC Reserve Adj 65".

Row 3422 - This row is added to accommodate entry of Customer Deposits.

Row 3423 - This row is added to accommodate entry of Other Deferred Credits.

Row 4030 - Column (d) is opened.

Row 4070 - Columns (e) through (r) are opened.

Row 4072 - Columns (e) through (r) are opened.

Row 4074 - The category is blank and N/As are inserted in columns (b) through (r).

Row 4075 - Column (k) is opened.

Row 4076 - Column (k) is opened.

Row 4080 - N/As are inserted in columns (e) through (r).

Row 4082 - The category is blank and N/As are inserted in columns (b) through (r).

Row 4110 - Column (k) is opened.

Row 4120 - Column (k) is opened.

Row 5076 - N/A is inserted in column (f).

Row 6040 - Column (l) is opened.

Row 6041 - Column (l) is opened.

Row 6120 - Column (l) is opened.

Row 6121 - Column (l) is opened.

Row 6180 - Columns (e), (g), (i), (m) and (o) are opened.

Row 6181 - Columns (e), (g), (i), (m) and (o) are opened.

Row 6190 - Columns (e), (g), (i), (l) and (o) are opened.

Row 6191 - Columns (e), (g), (i), (l) and (o) are opened.

Row 6200 - Columns (j) and (m) are opened.

Row 6201 - Columns (j) and (m) are opened.

Row 6221 - N/A is inserted in column (f).

Row 6998 - This row is added to accommodate entry of Part 36 directly assigned Marketing Expenses.

Row 6999 - This row is added to accommodate entry of Part 36 allocated Marketing Expenses.

Row 7206 - Column (p) is opened.

Row 7259 - The category is retitled "Total OB&C 36".

Row 7332 - N/A is inserted in column (r).

Row 7350 - The category is retitled "FCC Expense Adj 65".

Row 8014 - The category is retitled "FCC Inc Adj 65".

Row 8018 - The category is retitled "FCC ITC Adj 65".

Row 8040 - N/A is inserted in column (q).

The specific changes to the General Instructions are:

General Instruction 1 is revised to read, "Items that need not be reported because they do not apply are designated by N/A. DO NOT override N/As. If a reporting carrier should wish to apply data to a field containing an N/A, the carrier must enter the amount(s) and an explanation as a footnote to the field. The amount(s) must not be entered in the N/A'd field. All other fields must be populated. If there are no data applicable to a given field, enter zero."

General Instruction 2 is revised to read, "Reporting carriers must follow the specific instructions provided in the attached Column Descriptions and Row Instructions. In addition, carriers must follow the jurisdictional separations and access charge procedures set forth in Parts 36, 65 and 69 of the Commission's Rules and referenced in the Row Instructions. Carriers must explain any deviations in footnotes. Do not include explanatory notes in the transmittal letter; such notes must be included in the Footnotes section of the filing as indicated in the attached Automated Report Specifications and Paper Report Specifications."

General Instruction 4 is revised to read, "When reporting investment amounts for Plant, Other Investment, and Reserves, carriers that perform annual separations studies must report annual investment data; carriers that perform monthly, quarterly, or semi-annual studies must provide average investment data. For example, carriers that perform quarterly studies must sum the data from the four studies and divide by four. When reporting Revenues, Expense, Taxes, Return (except rate of return), and Revenue Requirement data, carriers must provide the total annual data or the sum of monthly, quarterly, or semi-annual studies. When reporting allocation factors, carriers must report data as follows: (1) Usage amounts, such as minutes, should be reported as total annual data or the sum of monthly, quarterly, or semi-annual studies that represent the total usage for 365 days. For example, seven day studies must be projected to reflect each month's total usage for a total of 12 months; (2) expenses or revenues, when used as an allocation factor, should be reported as total annual data or the sum of monthly, quarterly, or semi-annual studies; (3) allocation factors such as weighted actual contacts should be reported as total annual data or the sum of monthly, quarterly, or semi-annual studies; (4) percentage allocation factors, such as the Loop Allocation Factor, should be reported as a weighted annual average: and, (5) terminations, users, and miles should be reported as a weighted annual average."

"NOTE: Minutes reported may not agree to billed minutes because minutes reported may be based on studies such as the seven day studies in the example for number (1), above."

General Instruction 5 is revised to read, "On the reporting form, each row description is followed by an indication that the data the carrier must enter apply to Parts 36, 65 and/or 69, as appropriate. In cases in which the total interstate amount of the cost category is directly assigned pursuant to Part 69, the Part 69 data must be reported on the total row for that category as indicated in the row instructions for the total row. All Part 69 amounts for a cost category must equal the total of the amounts allocated to the interstate jurisdiction for that category."

General Instruction 7 is revised to read, "All dollar amounts must be rounded to the nearest thousand, with the exception of rows 1273, 1335, 1453, 1495, 9005, 9007, 9008 and 9009. The dollar amounts in these rows must be rounded to the nearest penny and such amounts must be entered in dollars and cents (e.g., if cost per loop is $6.445, it must be entered as 6.45). Do not round row 9007. Amounts of minutes must be rounded to the nearest million except for toll minutes, which must be rounded to the nearest thousand. All seconds including weighted standard work seconds must be rounded to thousands. All weighted actual contacts, users, loops, and terminations must be reported in whole numbers. All conversation-minute-miles must be rounded to the nearest million. All circuit miles must be rounded to the nearest thousand. All rate of return amounts must be entered in percent and must be rounded to 2 decimal places (e.g., 12 2/3 percent should be entered as 12.67). All other percentage amounts must be entered in percent and must be rounded to 4 decimal

places (e.g., 12 2/3 percent should be entered as 12.6667). All other amounts must be rounded to the nearest thousand."

General Instruction 9 is revised to read, "If an entry is to be a subtraction, indicate so by placing a minus sign in the column immediately preceding the numeric data, e.g., use -4, NOT - 4 or (4) for the data disk file."

General Instruction 10 is added. It reads, "Adjustments to accommodate reallocation of common power costs in Part 36 from the assignment method in Part 32 must be completed before entering data in this report. Although the reallocation of common power costs between COE categories does not occur until COE is separated, these adjustments must be made prior to entering data in the Access Report in order to preserve its linear integrity. If these adjustments are not made prior to entering the data in this report, columns (p) plus (q) plus (r) will not equal column (d) for rows 1100 through 1400."

The specific changes to the Column Descriptions are:

Column (h) is deleted.

Column (i) Total Common Line is revised to read, "The total of columns (e) through (g), unless the row item is not apportioned among the common line subelements because of the aggregate carrier common line charge. In these instances, total common line will be the only field populated for common line and will not, therefore, equal the total of columns (e) through (g)."

The specific changes to the row instructions are:

Section I, C. Note is revised to read, "Pursuant to National Exchange Carrier Association, 3 FCC Rcd 6042 (1988), members of the National Exchange Carrier Association traffic sensitive pool may treat equal access expenses as expenses incurred in the current year. Those expenses must be reported on rows 60 to 83. All other carriers capitalize those expenses and amortize them over an eight year period pursuant to Petition for Recovery of Equal Access and Network Reconfiguration Costs, 1 FCC Rcd 434, 437 (1986) (Equal Access Reconsideration Order). Those amounts must be reported on rows 90 to 93. Those carriers that capitalize expenses and amortize them over eight years must show the current year's depreciation and amortization expenses on row 76 and all corporate operations expenses on row 90 through 93.

Row 999 is added. It reads, "General Support Facilities that are directly assigned pursuant to Section 36.1(c) and apportioned pursuant to Section 69.307."

Row 1004 is added. It reads, "Total General Support Facilities, total of rows 999 and 1000."

Row 1419 is added. It reads, "Other Information Origination/Termination Equipment that is directly assigned pursuant to Section 36.1(c)."

Row 1428 is revised to read, "Total Category 1, Other Information Origination/Termination Equipment, total of rows 1419, 1420, 1422, 1424, and 1425. Exception: for Column d, include in total only rows 1419, 1420, and 1422."

Row 1540 is revised to read, "Total Telecommunications Plant, excluding amortizable assets, the total of rows 10, 12, 14, 16, 18, 20, 1004, 1410, 1440, and 1530."

Row 2195 is reserved.

Row 2196 is reserved.

Row 2197 is reserved.

Row 2198 is reserved.

Row 2199 is reserved.

Row 2200 is reserved.

Row 2201 is reserved.

Row 2202 is reserved.

Row 2203 is revised to read, "Total Other Telecommunications Plant, total of rows 2190, 2191, 2192, and 2193."

Row 3332 is added, It reads, "Other Net Deferred Operating Income Taxes not included above that are allocated pursuant to Parts 36 and 69."

Row 3340 is revised to read, "Total Net Current Deferred Operating Income Taxes, total of rows 44, 3280, 3290, 3300, 3310, 3320, 3330, and 3332. If net current deferred operating income taxes are apportioned among the access elements based on Telecommunications Plant in Service, enter the amounts of net current deferred operating income taxes on this row, pursuant to Parts 36.506 and 69.2(z) and 69.301(a)."

Row 3402 is added. It reads, "Other Net Noncurrent Deferred Operating Income Taxes not included above that are allocated pursuant to Parts 36.506 and 69.2(a) and 69.301(a)".

Row 3410 is revised to read, "Total Net Noncurrent Deferred Operating Income Taxes, total of rows 46, 3350, 3360, 3370, 3380, 3390, 3400 and 3402. If net noncurrent deferred operating income taxes are apportioned among the access elements based on Telecommunications Plant in Service, enter the amounts of net noncurrent deferred operating income taxes on this row, pursuant to Parts 36 .506 and 69.2(z) and 69.301(a)."

Row 3422 is added. It reads, "Customer Deposits are separated between state and interstate by application of the interstate plant factor or special study. The interstate plant factor is calculated by dividing interstate plant-in-service by total plant-in-service (interim measures prescribed in 3 FCC Rcd 269 (1987)). The interstate amount is apportioned among the access elements pursuant to Section 69.309."

Row 3423 is added. It reads, "Other Deferred Credits that are separated pursuant to Parts 36 and 69."

Row 3430 is revised to read, "Total Reserves and Deferrals, the total of rows 3000, 3080, 3270, 3340, 3410, 3420, 3421, 3422, and 3423."

Row 4070 is revised to read, "Allowance for funds used during construction that is allocated pursuant to Sections 36.222(c) and 69.411."

Row 4072 is revised to read, "Social and community welfare contributions and fees that are allocated pursuant to Sections 36.222(c) and 69.4111."

Row 4074 is reserved.

Row 4076 is revised to read, "Total Non-Operating Income and Expenses total of rows 4070 and 4072."

Row 4080 is revised to read, "Interest paid relating to capital leases that is allocated pursuant to Section 36.223(a)."

Row 4082 is reserved.

Row 4120 is revised to read, "Total Operating Revenues less income effects of jurisdictional ratemaking differences, row 4050 less 4100."

Row 5020 is revised to read, "Central Office Expenses that are associated with private lines and are directly assigned pursuant to Section 36.2(a)."

Row 5021 is revised to read, "Central Office Expenses that are associated with message use and are directly assigned pursuant to Section 36.2(a)."

Row 5070 is revised to read, "Cable and Wire Facilities Expenses that are associated with private lines and are directly assigned pursuant to Sections 36.1(c) and 69.341(b)."

Row 5071 is revised to read, "Cable and Wire Facilities Expenses that are associated with message use and are directly assigned pursuant to Sections 36.1(c) and 69.341(b)."

Row 6998 is added. It reads, "Marketing Expenses that are directly associated with sales agency agreements and are directly assigned pursuant to

the Commission's Memorandum Opinion and Order, FCC 85-582, released November 15, 1985."

Row 6999 is added. It reads, "Marketing Expenses that are allocated pursuant to Section 36.372."

Row 7000 is revised to read, "Total Marketing Expenses, total of rows 6998 and 6999, including amounts that are allocated pursuant to Sections 69.309 and 69.403."

Row 7070 is revised to read, "Classified directory expenses that are directly assigned pursuant to Section 36.375.(b)(1)."

Row 7071 is revised to read, "TWX directory expenses that are allocated pursuant to Section 36.375(b)(2)."

Row 7073 is revised to read, "Expense of alphabetical and street address directories and traffic information records that are allocated pursuant to Sections 36.375(b)(3)."

Row 7075 is revised to read, "Expenses associated with foreign directories that are directly assigned pursuant to Section 36.375(b)(4)."

Row 7076 is revised to read, "Total Published Directory Listing Expenses, total of rows 7070, 7071, 7073, and 7075 and assigned pursuant to Section 69.405."

Row 8010 is revised to read, "Fixed charges that are subtracted in the calculation of approximate net taxable income pursuant to Sections 36.223(a), 36.412(b)(4) and 69.411 and which include amounts in row 4080."

Row 8014 is revised to read, "FCC taxable income adjustment that is the net of the following: (1) taxable income not included above that the FCC has expressly allowed for ratemaking purposes; and (2) taxable income included above that the FCC has expressly disallowed for ratemaking purposes pursuant to Part 65."

Row 8018 is revised to read, "FCC Investment Tax Credit which is the net of the following: (1) Investment Tax Credit not included above that the FCC has expressly allowed for ratemaking purposes; and (2) the Investment Tax Credit included above that the FCC has expressly disallowed for ratemaking purposes pursuant to Part 65"

Row 8020 is revised to read, "Federal income tax that is allocated pursuant to Section 36.412(b). This amount equals (row 8021 times the statutory federal income tax rate) less rows 8015 and 8018."

Row 8021 is revised to read, "Approximate net taxable income used to allocate Federal Income Tax pursuant to Sections 36.412(b) and 69.402(a). This amount

equals the sum of rows 4066, 4120, 8013 and 8014 less rows 4072, 7351, 8007 and 8010."

Row 8041 is revised to read, "Net Return equals the sum of rows 4066, 4090, and 4120 less rows 4072, 7351 and 8030."

Row 9002 is revised to read, "Universal Service Fund expense allocation which is calculated pursuant to Sections 36.601-.641. Carriers with higher than average non-traffic-sensitive loop costs must report their interstate allocation, as reported in the June submission to NECA for this reporting period in this row."

Row 9003 is revised to read, "Study area unseparated loop cost which is used to determine the Universal Service Fund expense allocation reported on row 9002 and is calculated pursuant to Section 36.621(a)."

Row 9004 is revised to read, "Study area working loops that are used to calculate the Universal Service Fund expense allocation reported on row 9002 pursuant to Section 36.611(a)(8)."

The specific changes to the Automated Report Specifications are as follows:

The example in B. is revised to read, "For example, the file name for the Unrestricted Version of the Access Report data file to be submitted by Illinois Bell to cover the calendar year 1990, would be LBIL90AC.U01:

LBIL	COSA for Illinois Bell
90	Data for calendar year 1990
AC	Access Report data file
.	decimal point
U	Unrestricted version
01	First submission of this year's data"

C. 4. is revised to read, "Do NOT include "$" or "%" or embedded commas or decimal points in any numeric data fields, except in the following instances: row number fields will include a decimal point and one decimal place but not a percent sign, and rate of return data fields will include a decimal point and two decimal places but not a percent sign. All other percentage fields will include a decimal point and four decimal places but not a percent sign. (See paragraph D4 below.)"

D. 1. is revised to read, "As specified in the accompanying Report Definition, all monetary figures must be rounded to the nearest thousand dollars with the exception of rows 1273, 1335, 1453, 1495, 9005, 9007, 9008 and 9009. The dollar amounts in these rows must be rounded to the nearest penny and such amounts must be entered in dollars and cents (e.g., if cost per loop is $6.45 it must be entered as 6.45). Do not round row 9007."

D. 2. is revised to read, "All amounts of minutes or seconds must be rounded to the nearest million, except as noted in number 5, below."

D. 3. is revised to read, "All conversation-minute-miles must be rounded to the nearest million. All circuit miles must be rounded to the nearest thousand."

D. 4. is revised to read, "All rate of return percentage amounts must be entered in percent and must be rounded to 2 decimal places (e.g., 12 2/3 percent should be entered as 12.67). All other percentage amounts must be entered in percent and must be rounded to 4 decimal places (e.g., 12 2/3 percent must be entered as 12.6667)."

D. 5. is revised to read, "All seconds, including weighted standard work seconds, must be rounded to thousands. Toll minutes of use on row 1127 must be rounded to thousands."

D. 6. is revised to read, "All weighted actual contacts and users must be displayed in whole numbers."

D. 7. is revised to read, "All amounts for loops and terminations must be displayed in whole numbers."

D. 8. is revised to read, "All other amounts must be rounded to the nearest thousand."
The specific changes to the Paper Report Specifications are:

C. 1. is revised to read, "If an entry is to be a subtraction, indicate so by placing a minus sign in the column immediately preceding the numeric data, e.g., use -4 or (4) NOT - 4."

D. 1. is revised to read, "As specified in the accompanying Report Definition, all monetary figures must be rounded to the nearest thousand, with the exception of rows 1273, 1335, 1453, 1495, 9005, 9007, 9008, and 9009. The dollar amounts in these rows must be rounded to the nearest penny and such amounts must be entered in dollars and cents (e.g., if cost per loop is $6.445 it must be entered as 6.45). Do not round row 9007."

D. 2. is revised to read, "All amounts of minutes must be rounded to the nearest million except as noted in number 5, below."

D. 3. is revised to read, "All conversation-minute-miles must be rounded to the nearest million. All circuit miles must be rounded to the nearest thousand."

D. 4. is revised to read, "All rate of return percentage amounts must be entered in percent and must be rounded to 2 decimal places (e.g., 12 2/3 percent should be entered as 12.67). All other percentage amounts mus be

entered in percent and must be rounded to 4 decimal places (e.g., 12 2/3 percent should be entered as 12.6667)."

D. 5. is revised to read, "All seconds, including weighted standard work seconds, must be rounded to thousands. Toll minutes of use on row 1127 must be rounded to thousands."

D. 6. is revised to read, "All weighted actual contacts and users must be entered in whole numbers."

D. 7. is revised to read, "All amounts for loops and terminations just be entered in whole numbers."

D. 8 is revised to read, "All other amounts must be rounded to the nearest thousand."

APPENDIX II

This document provides the instructions for FCC Report 43-04, the ARMIS Access Report, which was adopted by the Commission in CC Docket No. 86-182. The instructions consist of the following five sections, which are attached:

1. Reporting Procedures - details on the specific procedures to be followed when submitting this report to the Commission.

2. Report Definition

   a. Summary - a description of the form and its reporting burden.

   b. Form - an illustration of the rows and columns to be reported.

   c. Certification - an illustration of the certification page.

   d. General Instructions - instructions including reporting and rounding conventions.

   e. Column Descriptions - descriptions of the columns to be reported.

   f. Row Instructions - instructions for completing the rows to be reported.

3. Automated Report Specifications - the detailed automated data processing (ADP) specifications for the automated report to be filed.

4. Paper Report Specifications - specifications for the paper report to be filed.

5. COSA Code Table - the list of four letter COSA codes (CO = Company, SA = Study Area).

A. Introduction

This document contains details on the specific procedures to be followed when submitting FCC Report 43-04, the ARMIS Access Report, to the Commission.

B. General Information

1. FCC Report 43-04 was adopted by the Commission in the ARMIS Order, Automated Reporting Requirements for Certain Class A and Tier 1 Telephone Companies (Parts 31, 43, 67, and 69 of the FCC's Rules), CC Docket No. 86-182, 2 FCC Rcd 5770 (1987). The report is prescribed for every local exchange carrier with operating revenues of $100 million or more.

2. Affected carriers shall file the report by April 1 of each year for the previous calendar year.

3. The report shall be filed on a study area (jurisdiction) basis.

4. Carriers seeking proprietary treatment for some data must provide two versions of each paper and automated report. The Confidential Version must contain all the required information (Confidential Treatment Tables/Data Records are provided to identify confidential data). The Public Version should not include data for which the carrier is seeking proprietary treatment. The carrier should prominently label the paper report and the diskette containing information subject to a claim of confidentiality to prevent inadvertent disclosure.

5. Carriers not seeking proprietary treatment for any data should provide only one version of each paper report and diskette. The paper report and the diskette should be labeled the Unrestricted Version.

6. The Confidential Treatment Tables/Data Records must be included in all reports but are not a substitute for applying for confidential treatment with this Commission following established Commission procedures.

7. Each report and diskette must be clearly labeled to include the report number, company, study area, period, COSA code, version and submission number. The report number is 43-04, which identifies the filing as the ARMIS Access Report. The period identifies the year covered by the report. See the attached COSA Code Table (CO = Company, SA = Study Area) for a list of companies and their respective COSAs. The version refers to whether the filing is the Confidential, Public or Unrestricted Version. The submission number is defined as follows: Submission 0 is for test data purposes only. Submission 1 is the first submission of a year's data. Higher numbers (2, 3, etc.) should be used if needed for successive revisions to correct that year's submission.

C. Data Items That Are "Not Available" or Are "Withheld"

1. The term "Not Available" is used below to refer only to those items that the Commission has ruled are not applicable to a particular row/column or are not required for a particular filing entity. The Confidential Version must contain values for all of the data items except those items that are "Not Available." If no data are applicable to a given field the carrier must enter zero. If, in addition to the required study area reports, a carrier submits a report that combines data for more than one study area, and this report includes a field such as a sum, a ratio, or a percentage that cannot be computed completely and accurately because it relies on another item that the Commission has ruled is a "Not Available" item, then that field is also considered to be "Not Available."

2. The term "Withheld" is used below to refer only to those items for which the carrier has applied for confidential treatment with the Commission and is only applicable to the Public Version. If a field such as a sum, a ratio or a percentage relies on an item or items that have been withheld and that field is not also withheld, then it must include the withheld amount. For example, a carrier could withhold the individual values for two of three numbers that are totaled. If the carrier does not also apply for confidential treatment for the total, then that total must be the sum of all three numbers, not just the one that was not withheld. The Public Version must contain values for all of the data items except those items which are "Not Available" or those items which have been "Withheld."

3. See paragraph C.5 in the attached Automated Report Specifications and paragraph C.2 in the attached Paper Report Specifications for data entry conventions for these items.

D. Where to File

1. Carriers submitting FCC Report 43-04 should consult the schedule below which details the number of copies required and the location to which those copies should be delivered.

2. Carriers are reminded that they must serve a copy of either the Unrestricted Version or the Public Version of both the paper report and the automated report (diskette) on the FCC's contractor for public records duplication, Downtown Copy Center at 1114 21st Street, N.W., Washington, D.C. 20036 or delivered to Downtown Copy Center in Room 246 at FCC Headquarters, 1919 M Street, N.W., Washington, D.C. 20036.

NUMBER OF COPIES

FOR CARRIERS SEEKING PROPRIETARY TREATMENT

	Transmittal Letter	Confidential Paper Report	Confidential Automated Report (diskette)	Public Paper Report	Public Automated Report (diskette)
FCC Secretary Room 222 1919 M Street, N.W. Washington, D.C. 20554	1	-	-	-	-
FCC Common Carrier Bureau Accounting & Audits Division Room 812 2000 L Street, N.W. Washington, D.C. 20554	1	1	1	1	1
Downtown Copy Center-Room 246 1919 M Street, N.W. Washington, D.C. 20036	1	-	-	1	1

FOR CARRIERS NOT SEEKING PROPRIETARY TREATMENT

	Transmittal Letter	Unrestricted Paper Report	Unrestricted Automated Report (diskette)
FCC Secretary Room 222 1919 M Street, N.W. Washington, D.C. 20554	1	-	-
FCC Common Carrier Bureau Accounting & Audits Division Room 812 2000 L Street, N.W. Washington, D.C. 20554	1	1	1
Downtown Copy Center-Room246 1919 M Street, N.W. Washington, D.C. 20036	1	1	1

E. **Footnotes**

1. If any data for the current period differs materially from that for the previous period and the difference is not self-explanatory but was caused by unusual circumstances not explained in a previous report, then include footnote text to explain the specific circumstances.

2. If the reporting carrier does not follow the procedures described in the row instructions as indicated on the reporting form, it must explain any deviations from those procedures in an explanatory footnote. Such footnotes must provide detailed explanations of the procedures actually used by the carrier and its specific reasons for deviating from the procedures prescribed by the Commission's rules.

3. Do not include explanatory footnotes in the transmittal letter. The footnote text must be included in the Footnote Text Records and the Footnote Table as specified in the attached Automated Report Specifications and the attached Paper Report Specifications.

F. **Errata**

1. Carriers are under a legal obligation to correct any erroneous data discovered in FCC Report 43-04. Submissions containing corrected data must include references to indicate which data items were corrected since the previous submission.

2. These references must be included in the Erratum Records and the Erratum Table as specified in the attached Automated Report Specifications and the attached Paper Report Specifications.

G. **Certification**

1. Carriers must certify the accuracy of the data submitted in FCC Report 43-04 by including a signed certification statement as the last page of the paper report.

2. The text of the certification statement is included in the attached Report Definition.

H. **Waivers**

1. If a carrier determines that it will be unable to provide data required by FCC Report 43-04, it must file an application for waiver with the Commission following established Commission procedures. All such requests from a carrier should be included in a single application. The application must demonstrate good cause for reporting a different or lower level of detail and indicate how these deficiencies will be corrected.

2. Omission of individual data items or entries without a request for waiver is unacceptable.

I. **Public Information**

1. The Public or Unrestricted Versions of the paper reports filed as Report 43-04 may be examined by the public from 9:00 to 11:00 a.m. and from 2:00 to 4:00 p.m., Monday through Friday, in Room 812, 2000 L Street, N.W., Washington, D.C.

2. Copies of the Public or Unrestricted Versions of the paper or automated reports filed as FCC Report 43-04 may be obtained from the FCC's contractor for public records duplication, Downtown Copy Center at (202) 452-1422.

For further information regarding these procedures, contact:

Barbara Van Hagen
FCC Common Carrier Bureau
Accounting & Audits Division
(202) 634-1861

Approved by OMB
3060-0395
Expires 10/31/92
Estimated Average Burden Hours Per Response: 220 hours

SUMMARY

This document provides the Report Definition for FCC Report 43-04, the ARMIS Access Report, and lists the jurisdictional separations and access charge data which must be provided annually for each study area. It contains the following:

Form - an illustration of the rows and columns to be reported.

Certification - an illustration of the certification page.

General Instructions - instructions including reporting and rounding conventions.

Column Descriptions - descriptions of the columns to be reported.

Row Instructions - instructions for completing the rows to be reported.

NOTICE: The ARMIS Access Report collects the results of the jurisdictional separations and access charge procedures as specified in Parts 36 and 69 of the Commission's Rules. The ARMIS Access Report specifies information requirements in a consistent format and is essential to the FCC to monitor revenue requirements, joint cost allocations, jurisdictional separations, and access charges. Your response is mandatory.

Public reporting burden for this collection of information is estimated to average 220 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden to the Federal Communications Commission, Office of Managing Director, Washington DC 20554, and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington DC 20503.

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Subject to Separations (b)	State (c)	Interstate (d)	Common Line Pay (e)	Common Line Inside Wire (f)	Common Line BFP (g)
	I. Equal Access						
	A. Property						
10	GSF 36/69				N/A	N/A	N/A
11	#EA MOU 36				N/A	N/A	N/A
12	EA COE Cat 2 36/69				N/A	N/A	N/A
13	#EA MOU 36				N/A	N/A	N/A
14	EA COE Cat 3 36/69				N/A	N/A	N/A
15	#EA MOU 36				N/A	N/A	N/A
16	EA Oth COE 36/69				N/A	N/A	N/A
17	#EA MOU 36				N/A	N/A	N/A
18	EA IOT 36/69				N/A	N/A	N/A
19	#EA MOU 36				N/A	N/A	N/A
20	EA C&WF 36/69				N/A	N/A	N/A
21	#EA MOU 36				N/A	N/A	N/A
22	Amort Ass 36/69				N/A	N/A	N/A
23	#EA MOU 36				N/A	N/A	N/A
24	Other Plant 36/69				N/A	N/A	N/A
25	#EA MOU 36				N/A	N/A	N/A
26	Invtr 36/69				N/A	N/A	N/A
27	#EA MOU 36				N/A	N/A	N/A
28	CWC 36/69				N/A	N/A	N/A
29	#EA MOU 36				N/A	N/A	N/A
30	Total Property36/69				N/A	N/A	N/A
	B. Reserves and Deferrals						
40	Acc Depr 36/69				N/A	N/A	N/A
41	#EA MOU 36				N/A	N/A	N/A
42	Acc Amort 36/69				N/A	N/A	N/A
43	#EA MOU 36				N/A	N/A	N/A
44	Ct Def IncTax 36/69				N/A	N/A	N/A
45	#EA MOU 36				N/A	N/A	N/A
46	NoC Def IncTax36/69				N/A	N/A	N/A
47	#EA MOU 36				N/A	N/A	N/A
48	All Other-Net 36/69				N/A	N/A	N/A
49	#EA MOU 36				N/A	N/A	N/A
50	Tot Res & Def 36/69				N/A	N/A	N/A
51	Net EA Inv 36/69				N/A	N/A	N/A

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Total Common Line (i)	Traffic Sensitive: Switching (j)	EqualAccess (k)	Transport (l)	Information (m)	Total Traffic Sen (n)	Special Access (o)
	I. Equal Access							
	A. Property							
10	GSF 36/69	N/A			N/A	N/A		N/A
11	#EA MOU 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
12	EA COE Cat 2 36/69	N/A			N/A	N/A		N/A
13	#EA MOU 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
14	EA COE Cat 3 36/69	N/A			N/A	N/A		N/A
15	#EA MOU 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
16	EA Oth COE 36/69	N/A			N/A	N/A		N/A
17	#EA MOU 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
18	EA IOT 36/69	N/A			N/A	N/A		N/A
19	#EA MOU 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
20	EA C&WF 36/69	N/A			N/A	N/A		N/A
21	#EA MOU 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
22	Amort Ass 36/69	N/A			N/A	N/A		N/A
23	#EA MOU 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
24	Other Plant 36/69	N/A			N/A	N/A		N/A
25	#EA MOU 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
26	Invtr 36/69	N/A			N/A	N/A		N/A
27	#EA MOU 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
28	CWC 36/69	N/A			N/A	N/A		N/A
29	#EA MOU 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
30	Total Property36/69	N/A			N/A	N/A		N/A
	B. Reserves and Deferrals							
40	Acc Depr 36/69	N/A			N/A	N/A		N/A
41	#EA MOU 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
42	Acc Amort 36/69	N/A			N/A	N/A		N/A
43	#EA MOU 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
44	Ct Def IncTax 36/69	N/A			N/A	N/A		N/A
45	#EA MOU 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
46	NoC Def IncTax36/69	N/A			N/A	N/A		N/A
47	#EA MOU 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
48	All Other-Net 36/69	N/A			N/A	N/A		N/A
49	#EA MOU 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
50	Tot Res & Def 36/69	N/A			N/A	N/A		N/A
51	Net EA Inv 36/69	N/A			N/A	N/A		N/A

COMPANY: xxxxxxxxxxxxxxxxxxxxxxxxxxxxxx
STUDY AREA: xxxxxxxxxxxxxxxxxxx
PERIOD: From mmm yyyy To mmm yyyy
COSA: xxxx

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Total Access (p)	Billing & Collection (q)	IX (r)
	I. Equal Access			
	A. Property			
10	GSF 36/69		N/A	N/A
11	$EA MOU 36	N/A	N/A	N/A
12	EA COE Cat 2 36/69		N/A	N/A
13	$EA MOU 36	N/A	N/A	N/A
14	EA COE Cat 3 36/69		N/A	N/A
15	$EA MOU 36	N/A	N/A	N/A
16	EA Oth COE 36/69		N/A	N/A
17	$EA MOU 36	N/A	N/A	N/A
18	EA IOT 36/69		N/A	N/A
19	$EA MOU 36	N/A	N/A	N/A
20	EA C&WF 36/69		N/A	N/A
21	$EA MOU 36	N/A	N/A	N/A
22	Amort Ass 36/69		N/A	N/A
23	$EA MOU 36	N/A	N/A	N/A
24	Other Plant 36/69		N/A	N/A
25	$EA MOU 36	N/A	N/A	N/A
26	Invtr 36/69		N/A	N/A
27	$EA MOU 36	N/A	N/A	N/A
28	CWC 36/69		N/A	N/A
29	$EA MOU 36	N/A	N/A	N/A
30	Total Property36/69		N/A	N/A
	B. Reserves and Deferrals			
40	Acc Depr 36/69		N/A	N/A
41	$EA MOU 36	N/A	N/A	N/A
42	Acc Amort 36/69		N/A	N/A
43	$EA MOU 36	N/A	N/A	N/A
44	Ct Def IncTax 36/69		N/A	N/A
45	$EA MOU 36	N/A	N/A	N/A
46	NoC Def IncTax36/69		N/A	N/A
47	$EA MOU 36	N/A	N/A	N/A
48	All Other-Net 36/69		N/A	N/A
49	$EA MOU 36	N/A	N/A	N/A
50	Tot Res & Def 36/69		N/A	N/A
51	Net Ea Inv 36/69		N/A	N/A

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Subject to Separations (b)	State (c)	Interstate (d)	Common Line Pay (e)	Common Line Inside Wire (f)	Common Line BFP (g)
	C. Operating Expenses						
60	GSF 36/69				N/A	N/A	N/A
61	$EA MOU 36				N/A	N/A	N/A
62	Network Supp 36/69				N/A	N/A	N/A
63	$EA MOU 36				N/A	N/A	N/A
64	CO Exp 36/69				N/A	N/A	N/A
65	$EA MOU 36				N/A	N/A	N/A
66	IOT Expenses 36/69				N/A	N/A	N/A
67	$EA MOU 36				N/A	N/A	N/A
68	C&WF Expenses 36/69				N/A	N/A	N/A
69	$EA MOU 36				N/A	N/A	N/A
70	Oth PP&E Exp 36/69				N/A	N/A	N/A
71	$EA MOU 36				N/A	N/A	N/A
72	Network Oper 36/69				N/A	N/A	N/A
73	$EA MOU 36				N/A	N/A	N/A
74	Access Exp 36/69				N/A	N/A	N/A
75	$EA MOU 36				N/A	N/A	N/A
76	Depr/Amort 36/69				N/A	N/A	N/A
77	$EA MOU 36				N/A	N/A	N/A
78	Marketing Exp 36/69				N/A	N/A	N/A
79	$EA MOU 36				N/A	N/A	N/A
80	Services Exp 36/69				N/A	N/A	N/A
81	$EA MOU 36				N/A	N/A	N/A
82	Corp Op Exp 36/69				N/A	N/A	N/A
83	$EA MOU 36				N/A	N/A	N/A
84	Tot Expenses 36/69				N/A	N/A	N/A
	D. Deferred Charges and Expense Amortization						
90	DChg Beg Bal 36/69				N/A	N/A	N/A
91	Additions 36/69				N/A	N/A	N/A
92	Deductions 36/69				N/A	N/A	N/A
93	Avg Bal for Yr36/69				N/A	N/A	N/A

COMPANY: xxxxxxxxxxxxxxxxxxxxxxxxxxxxxx
STUDY AREA: xxxxxxxxxxxxxxxxxxx
PERIOD: From mmm yyyy To mmm yyyy
COSA: xxxx

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Total Common Line (i)	Traffic Sensitive: Switching (j)	Traffic Sensitive: EqualAccess (k)	Traffic Sensitive: Transport (l)	Traffic Sensitive: Information (m)	Total Traffic Sen (n)	Special Access (o)
	C. Operating Expenses							
60	GSF 36/69	N/A			N/A	N/A		N/A
61	#EA MOU 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
62	Network Supp 36/69	N/A			N/A	N/A		N/A
63	#EA MOU 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
64	CO Exp 36/69	N/A			N/A	N/A		N/A
65	#EA MOU 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
66	IOT Exp 36/69	N/A			N/A	N/A		N/A
67	#EA MOU 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
68	C&WF Exp 36/69	N/A			N/A	N/A		N/A
69	#EA MOU 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
70	Oth PP&E Exp 36/69	N/A			N/A	N/A		N/A
71	#EA MOU 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
72	Network Oper 36/69	N/A			N/A	N/A		N/A
73	#EA MOU 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
74	Access Exp 36/69	N/A			N/A	N/A		N/A
75	#EA MOU 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
76	Depr/Amort 36/69	N/A			N/A	N/A		N/A
77	#EA MOU 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
78	Marketing Exp 36/69	N/A			N/A	N/A		N/A
79	#EA MOU 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
80	Services Exp 36/69	N/A			N/A	N/A		N/A
81	#EA MOU 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
82	Corp Op Exp 36/69	N/A			N/A	N/A		N/A
83	#EA MOU 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
84	Tot Expenses 36/69	N/A			N/A	N/A		N/A
	D. Deferred Charges and Expense Amortization							
90	DChg Beg Bal 36/69	N/A			N/A	N/A		N/A
91	Additions 36/69	N/A			N/A	N/A		N/A
92	Deductions 36/69	N/A			N/A	N/A		N/A
93	Avg Bal for Yr36/69	N/A			N/A	N/A		N/A

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Total Access (p)	Billing & Collection (q)	IX (r)
	C. Operating Expenses			
60	GSF 36/69		N/A	N/A
61	#EA MOU	N/A	N/A	N/A
62	Network Supp 36/69		N/A	N/A
63	#EA MOU 36	N/A	N/A	N/A
64	CO Exp 36/69		N/A	N/A
65	#EA MOU 36	N/A	N/A	N/A
66	IOT Expenses 36/69		N/A	N/A
67	#EA MOU 36	N/A	N/A	N/A
68	C&WF Expenses 36/69		N/A	N/A
69	#EA MOU 36	N/A	N/A	N/A
70	Oth PP&E Exp 36/69		N/A	N/A
71	#EA MOU 36	N/A	N/A	N/A
72	Network Oper 36/69		N/A	N/A
73	#EA MOU 36	N/A	N/A	N/A
74	Access Exp 36/69		N/A	N/A
75	#EA MOU 36	N/A	N/A	N/A
76	Depr/Amort 36/69		N/A	N/A
77	#EA MOU 36	N/A	N/A	N/A
78	Marketing Exp 36/69		N/A	N/A
79	#EA MOU 36	N/A	N/A	N/A
80	Services Exp 36/69		N/A	N/A
81	#EA MOU 36	N/A	N/A	N/A
82	Corp Op Exp 36/69		N/A	N/A
83	#EA MOU 36	N/A	N/A	N/A
84	Tot Expenses 36/69		N/A	N/A
	D. Deferred Charges and Expense Amortization			
90	DChg Beg Bal 36/69		N/A	N/A
91	Additions 36/69		N/A	N/A
92	Deductions 36/69		N/A	N/A
93	Avg Bal for Yr36/69		N/A	N/A

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Subject to Separations (b)	State (c)	Interstate (d)	Common Line Pay (e)	Common Line Inside Wire (f)	Common Line BFP (g)
	II. Telecommunications Plant						
	A. General Support Facilities (GSF)						
999	GSF DA 36/69						
1000	GSF 36/69						
1001	#Big 3 Exp Cls A 36				N/A	N/A	N/A
1002	#Inv Cls B 36				N/A	N/A	N/A
1003	#Inv 69	N/A	N/A				
1004	Tot GSF 36/69						
	B. Central Office Equipment (COE)						
	1. Category 1 COE - Operator Systems Equipment						
	a) Switchboards at Toll Centers						
1100	Separate Toll 36/69				N/A	N/A	N/A
1101	#WSWS 36				N/A	N/A	N/A
1102	Separate Lcl 36/69				N/A	N/A	N/A
1103	#WSWS 36				N/A	N/A	N/A
1104	Comb Lcl Toll 36/69				N/A	N/A	N/A
1105	#WSWS 36				N/A	N/A	N/A
1106	Comb Toll/DSA 36/69				N/A	N/A	N/A
1107	#WSWS 36				N/A	N/A	N/A
1108	Separate DSA 36/69				N/A	N/A	N/A
1109	#WSWS 36				N/A	N/A	N/A
1110	Separate DSB 36/69				N/A	N/A	N/A
1111	#WSWS 36				N/A	N/A	N/A
1112	Tot Toll Ctr 36/69				N/A	N/A	N/A
	b) Service Observing Boards						
1120	Joint SOB 36		N/A	N/A	N/A	N/A	N/A
1121	#Exchange SOU 36		N/A	N/A	N/A	N/A	N/A
1122	#Toll SOU 36		N/A	N/A	N/A	N/A	N/A
1123	Exchange 36			N/A	N/A	N/A	N/A
1124	Joint Toll 36				N/A	N/A	N/A
1125	Sep Toll SOB 36				N/A	N/A	N/A
1126	Tot Toll SOB 36/69				N/A	N/A	N/A
1127	#Toll MOU 36				N/A	N/A	N/A
1128	#COE 1,2 & 3 69	N/A	N/A		N/A	N/A	N/A
1129	Tot SOB 36/69				N/A	N/A	N/A

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Total Common Line (i)	Traffic Sensitive Switching (j)	Traffic Sensitive EqualAccess (k)	Traffic Sensitive Transport (l)	Traffic Sensitive Information (m)	Total Traffic Sen (n)	Special Access (o)
	II. Telecommunications Plant							
	A. General Support Facilities (GSF)							
999	GSF DA 36/69							
1000	GSF 36/69			N/A				
1001	#Big 3 Exp Cls A 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1002	#Inv Cls B 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1003	#Inv 69			N/A				
1004	Tot GSF 36/69			N/A				
	B. Central Office Equipment (COE)							
	1. Category 1 COE - Operator Systems Equipment							
	a) Switchboards at Toll Centers							
1100	Separate Toll 36/69	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1101	#WSWS 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1102	Separate Lcl 36/69	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1103	#WSWS 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1104	Comb Lcl Toll 36/69	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1105	#WSWS 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1106	Comb Toll/DSA 36/69	N/A		N/A	N/A			N/A
1107	#WSWS 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1108	Separate DSA 36/69	N/A		N/A	N/A			N/A
1109	#WSWS 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1110	Separate DSB 36/69	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1111	#WSWS 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1112	Tot Toll Ctr 36/69	N/A		N/A	N/A			N/A
	b) Service Observing Boards							
1120	Joint SOB 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1121	#Exchange SOU 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1122	#Toll SOU 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1123	Exchange 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1124	Joint Toll 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1125	Sep Toll SOB 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1126	Tot Toll SOB 36/69	N/A		N/A				N/A
1127	#Toll MOU 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1128	#COE 1,2 & 3 69	N/A		N/A				N/A
1129	Tot SOB 36/69	N/A		N/A				N/A

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TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Total Access (p)	Billing & Collection (q)	IX (r)
	II. Telecommunications Plant			
	A. General Support Facilities (GSF)			
999	GSF DA 36/69			
1000	GSF 36/69			
1001	#Big 3 Exp Cls A 36	N/A	N/A	N/A
1002	#Inv Cls B 36	N/A	N/A	N/A
1003	#Inv 69			
1004	Tot GSF 36/69			
	B. Central Office Equipment (COE)			
	1. Category 1 COE - Operator Systems Equipment			
	a) Switchboards at Toll Centers			
1100	Separate Toll 36/69	N/A	N/A	
1101	#WSWS 36	N/A	N/A	N/A
1102	Separate Lcl 36/69	N/A	N/A	
1103	#WSWS 36	N/A	N/A	N/A
1104	Comb Lcl Toll 36/69	N/A	N/A	
1105	#WSWS 36	N/A	N/A	N/A
1106	Comb Toll/DSA 36/69		N/A	
1107	#WSWS 36	N/A	N/A	N/A
1108	Separate DSA 36/69		N/A	
1109	#WSWS 36	N/A	N/A	N/A
1110	Separate DSB 36/69	N/A	N/A	
1111	#WSWS 36	N/A	N/A	N/A
1112	Tot Toll Ctr 36/69		N/A	
	b) Service Observing Boards			
1120	Joint SOB 36	N/A	N/A	N/A
1121	#Exchange SOU 36	N/A	N/A	N/A
1122	#Toll SOU 36	N/A	N/A	N/A
1123	Exchange 36	N/A	N/A	N/A
1124	Joint Toll 36	N/A	N/A	N/A
1125	Sep Toll SOB 36	N/A	N/A	N/A
1126	Tot Toll SOB 36/69		N/A	
1127	#Toll MOU 36	N/A	N/A	N/A
1128	#COE 1,2 & 3 69		N/A	
1129	Tot SOB 36/69		N/A	

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Subject to Separations (b)	State (c)	Interstate (d)	Common Line Pay (e)	Common Line Inside Wire (f)	Common Line BFP (g)
	c) Auxiliary Service Boards						
1130	Separate DA 36/69				N/A	N/A	N/A
1131	#Toll WSWS 36				N/A	N/A	N/A
1132	#Oth WSWS 36				N/A	N/A	N/A
1133	Toll DA 36/69				N/A	N/A	N/A
1134	#Toll WSWS 36				N/A	N/A	N/A
1135	Other DA 36/69				N/A	N/A	N/A
1136	#Oth WSWS 36				N/A	N/A	N/A
1137	Sep Intct/AIS 36/69				N/A	N/A	N/A
1138	#Sub Line MOU 36				N/A	N/A	N/A
1139	#DA WSWS 36				N/A	N/A	N/A
1140	#Int WSWS 36				N/A	N/A	N/A
1141	#Rate/Route WSWS 36				N/A	N/A	N/A
1142	#Toll WSWS 36				N/A	N/A	N/A
1143	#Oth WSWS 36				N/A	N/A	N/A
1144	Joint ASB DA 36/69				N/A	N/A	N/A
1145	Toll ASB DA 36				N/A	N/A	N/A
1146	#Toll WSWS 36				N/A	N/A	N/A
1147	Oth ASB DA 36				N/A	N/A	N/A
1148	#Oth WSWS 36				N/A	N/A	N/A
1149	Joint ASB Int 36/69				N/A	N/A	N/A
1150	#Sub Line MOU 36				N/A	N/A	N/A
1151	Rate & Route 36/69				N/A	N/A	N/A
1152	#Rate/Route WSWS 36				N/A	N/A	N/A
1153	Tot Joint ASB 36/69				N/A	N/A	N/A
1154	Tot ASB 36/69				N/A	N/A	N/A

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TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Total Common Line (i)	Traffic Sensitive: Switching (j)	Traffic Sensitive: EqualAccess (k)	Traffic Sensitive: Transport (l)	Traffic Sensitive: Information (m)	Total Traffic Sen (n)	Special Access (o)
	c) Auxiliary Service Boards							
1130	Separate DA 36/69	N/A	N/A	N/A	N/A			N/A
1131	#Toll WSWS 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1132	#Oth WSWS 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1133	Toll DA 36/69	N/A	N/A	N/A	N/A			N/A
1134	#Toll WSWS 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1135	Other DA 36/69	N/A	N/A	N/A	N/A			N/A
1136	#Oth WSWS 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1137	Sep Intct/AIS 36/69	N/A		N/A	N/A	N/A		N/A
1138	#Sub Line MOU 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1139	#DA WSWS 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1140	#Int WSWS 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1141	#Rate/Route WSWS 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1142	#Toll WSWS 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1143	#Oth WSWS 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1144	Joint ASB DA 36/69	N/A		N/A	N/A			N/A
1145	Toll ASB DA 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1146	#TOLL WSWS 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1147	Oth ASB DA 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1148	#OTH WSWS 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1149	Joint ASB Int 36/69	N/A		N/A	N/A	N/A		N/A
1150	#Sub Line MOU 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1151	Rate & Route 36/69	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1152	#Rate/Route WSWS 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1153	Tot Joint ASB 36/69	N/A		N/A	N/A			N/A
1154	Tot ASB 36/69	N/A		N/A	N/A			N/A

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (s)	Total Access (p)	Billing & Collection (q)	IX (r)
	c) Auxiliary Service Boards			
1130	Separate DA 36/69		N/A	
1131	#Toll WSWS 36	N/A	N/A	N/A
1132	#Oth WSWS 36	N/A	N/A	N/A
1133	Toll DA 36/69		N/A	
1134	#Toll WSWS 36	N/A	N/A	N/A
1135	Other DA 36/69		N/A	
1136	#Oth WSWS 36	N/A	N/A	N/A
1137	Sep Intct/AIS 36/69		N/A	N/A
1138	#Sub Line MOU 36	N/A	N/A	N/A
1139	#DA WSWS 36	N/A	N/A	N/A
1140	#Int WSWS 36	N/A	N/A	N/A
1141	#Rate/Route WSWS 36	N/A	N/A	N/A
1142	#Toll WSWS 36	N/A	N/A	N/A
1143	#Oth WSWS 36	N/A	N/A	N/A
1144	Joint ASB DA 36/69		N/A	
1145	Toll ASB DA 36	N/A	N/A	N/A
1146	#TOLL WSWS 36	N/A	N/A	N/A
1147	Oth ASB DA 36	N/A	N/A	N/A
1148	#Oth WSWS 36	N/A	N/A	N/A
1149	Joint ASB Int 36/69		N/A	N/A
1150	#Sub Line MOU 36	N/A	N/A	N/A
1151	Rate & Route 36/69	N/A	N/A	
1152	#Rate/Route WSWS 36	N/A	N/A	N/A
1153	Tot Joint ASB 36/69		N/A	
1154	Tot ASB 36/69		N/A	

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Subject to Separations (b)	State (c)	Interstate (d)	Common Line Pay (e)	Common Line Inside Wire (f)	Common Line BFP (g)
	d) Traffic Service Positions						
1160	Operator TSPS 36/69				N/A	N/A	N/A
1161	#WSWS 36				N/A	N/A	N/A
1162	RTA 36/69				N/A	N/A	N/A
1163	#Proc Real Tme 36				N/A	N/A	N/A
1164	Remain Inv 36/69				N/A	N/A	N/A
1165	#Proc Real Tme 36				N/A	N/A	N/A
1166	Other TSP 36/69				N/A	N/A	N/A
1167	#WSWS 36				N/A	N/A	N/A
1168	Tot TSP 36/69				N/A	N/A	N/A
1170	Tot Cat 1 36/69				N/A	N/A	N/A
	2. Category 2 COE - Tandem Switching Equipment						
1200	Direct PL 36				N/A	N/A	N/A
1201	Direct Message 36				N/A	N/A	N/A
1202	Joint 36				N/A	N/A	N/A
1203	#Tandem MOU 36				N/A	N/A	N/A
1204	Tot Cat 2 36/69				N/A	N/A	N/A
	3. Category 3 COE - Local Switching Equipment						
1210	Direct PL 36				N/A	N/A	N/A
1211	Direct Message 36				N/A	N/A	N/A
1212	Joint 36				N/A	N/A	N/A
1213	#IAF 36 %				N/A	N/A	N/A
1214	#CAF 36 %				N/A	N/A	N/A
1215	#A Component 36 %		N/A	N/A	N/A	N/A	N/A
1216	#DEM 36				N/A	N/A	N/A
1217	#B Component 36 %		N/A	N/A	N/A	N/A	N/A
1219	Tot Cat 3 36/69				N/A	N/A	N/A

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Total Common Line (i)	Traffic Sensitive: Switching (j)	Equal Access (k)	Transport (l)	Information (m)	Total Traffic Sen (n)	Special Access (o)
	d) Traffic Service Positions							
1160	Operator TSPS 36/69	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1161	#WSWS 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1162	RTA 36/69	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1163	#Proc Real Tme 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1164	Remain Inv 36/69	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1165	#Proc Real Tme 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1166	Other TSP 36/69	N/A	N/A	N/A		N/A		N/A
1167	#WSWS 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1168	Tot TSP 36/69	N/A	N/A	N/A		N/A		N/A
1170	Tot Cat 1 36/69	N/A		N/A				N/A
	2. Category 2 COE - Tandem Switching Equipment							
1200	Direct PL 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1201	Direct Message 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1202	Joint 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1203	#Tandem MOU 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1204	Tot Cat 2 36/69	N/A	N/A	N/A		N/A		N/A
	3. Category 3 COE - Local Switching Equipment							
1210	Direct PL 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1211	Direct Message 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1212	Joint 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1213	#IAF 36 %	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1214	#CAF 36 %	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1215	#A Component 36 %	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1216	#DEM 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1217	#B Component 36 %	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1219	Tot Cat 3 36/69	N/A		N/A		N/A		

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TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Total Access (p)	Billing & Collection (q)	IX (r)
	d) Traffic Service Positions			
1160	Operator TSPS 36/69	N/A	N/A	
1161	#WSWS 36	N/A	N/A	N/A
1162	RTA 36/69	N/A	N/A	
1163	#Proc Real Tme 36	N/A	N/A	N/A
1164	Remain Inv 36/69	N/A	N/A	
1165	#Proc Real Tme 36	N/A	N/A	N/A
1166	Other TSP 36/69		N/A	
1167	#WSWS 36	N/A	N/A	N/A
1168	Tot TSP 36/69		N/A	
1170	Tot Cat 1 36/69		N/A	
	2. Category 2 COE - Tandem Switching Equipment			
1200	Direct PL 36	N/A	N/A	N/A
1201	Direct Message 36	N/A	N/A	N/A
1202	Joint 36	N/A	N/A	N/A
1203	#Tandem MOU 36	N/A	N/A	N/A
1204	Tot Cat 2 36/69		N/A	
	3. Category 3 COE - Local Switching Equipment			
1210	Direct PL 36	N/A	N/A	N/A
1211	Direct Message 36	N/A	N/A	N/A
1212	Joint 36	N/A	N/A	N/A
1213	#IAF 36 %	N/A	N/A	N/A
1214	#CAF 36 %	N/A	N/A	N/A
1215	#A Component 36 %	N/A	N/A	N/A
1216	#DEM 36	N/A	N/A	N/A
1217	#B Component 36 %	N/A	N/A	N/A
1219	Tot Cat 3 36/69		N/A	

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Subject to Separations (b)	State (c)	Interstate (d)	Common Line Pay (e)	Common Line Inside Wire (f)	Common Line BFP (g)
	4. Category 4 COE - Circuit Equipment						
	a) Category 4.1 COE - Exchange Circuit Equipment						
	(1) Category 4.11 COE - Wideband Exchange Line Circuit Equipment						
1220	Direct PL 36				N/A	N/A	N/A
1221	Direct Message 36				N/A	N/A	N/A
1222	Joint 36				N/A	N/A	N/A
1223	#MOU 36				N/A	N/A	N/A
1224	Tot Cat 4.11 36/69				N/A	N/A	N/A
	(2) Category 4.12 COE-Exchange Trunk Circuit Equipment (Wideband and Non-Wideband)						
	(a) Basic Non-Wideband Category 4.12 COE						
1230	Direct PL 36				N/A	N/A	N/A
1231	Direct Message 36				N/A	N/A	N/A
1232	Joint 36				N/A	N/A	N/A
1233	#MOU 36				N/A	N/A	N/A
1234	Tot Bas NonW 36				N/A	N/A	N/A
	(b) Special Non-Wideband Category 4.12 COE						
1240	Direct PL 36				N/A	N/A	N/A
1241	TWX 36				N/A	N/A	N/A
1242	#TWX MOU 36				N/A	N/A	N/A
1243	Tot Sp NonW 36				N/A	N/A	N/A
	(c) Wideband Category 4.12 COE						
1250	Direct PL 36				N/A	N/A	N/A
1251	Direct Message 36				N/A	N/A	N/A
1252	Joint 36				N/A	N/A	N/A
1253	#MOU 36				N/A	N/A	N/A
1254	Tot Wide 4.12 36				N/A	N/A	N/A
1260	Tot Cat 4.12 36/69				N/A	N/A	N/A

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Total Common Line (i)	Traffic Sensitive: Switching (j)	Equal Access (k)	Transport (l)	Information (m)	Total Traffic Sen (n)	Special Access (o)
	4. Category 4 COE - Circuit Equipment							
	a) Category 4.1 COE - Exchange Circuit Equipment							
	(1) Category 4.11 COE - Wideband Exchange Line Circuit Equipment							
1220	Direct PL 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1221	Direct Message 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1222	Joint 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1223	#MOU 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1224	Tot Cat 4.11 36/69	N/A	N/A	N/A		N/A		
	(2) Category 4.12 COE-Exchange Trunk Circuit Equipment (Wideband and Non-Wideband)							
	(a) Basic Non-Wideband Category 4.12 COE							
1230	Direct PL 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1231	Direct Message 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1232	Joint 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1233	#MOU 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1234	Tot Bas NonW 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	(b) Special Non-Wideband Category 4.12 COE							
1240	Direct PL 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1241	TWX 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1242	#TWX MOU 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1243	Tot Sp NonW 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	(c) Wideband Category 4.12 COE							
1250	Direct PL 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1251	Direct Message 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1252	Joint 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1253	#MOU 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1254	Tot Wide 4.12 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1260	Tot Cat 4.12 36/69	N/A	N/A	N/A		N/A		

COMPANY: xxxxxxxxxxxxxxxxxxxxxxxxxxxxxx
STUDY AREA: xxxxxxxxxxxxxxxxxxx
PERIOD: From mmm yyyy To mmm yyyy
COSA: xxxx

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Total Access (p)	Billing & Collection (q)	IX (r)
	4. Category 4 COE - Circuit Equipment			
	a) Category 4.1 COE - Exchange Circuit Equipment			
	(1) Category 4.11 COE - Wideband Exchange Line Circuit Equipment			
1220	Direct PL 36	N/A	N/A	N/A
1221	Direct Message 36	N/A	N/A	N/A
1222	Joint 36	N/A	N/A	N/A
1223	#MOU 36	N/A	N/A	N/A
1224	Tot Cat 4.11 36/69		N/A	
	(2) Category 4.12 COE-Exchange Trunk Circuit Equipment (Wideband and Non-Wideband)			
	(a) Basic Non-Wideband Category 4.12 COE			
1230	Direct PL 36	N/A	N/A	N/A
1231	Direct Message 36	N/A	N/A	N/A
1232	Joint 36	N/A	N/A	N/A
1233	#MOU 36	N/A	N/A	N/A
1234	Tot Bas NonW 36	N/A	N/A	N/A
	(b) Special Non-Wideband Category 4.12 COE			
1240	Direct PL 36	N/A	N/A	N/A
1241	TWX 36	N/A	N/A	N/A
1242	#TWX MOU 36	N/A	N/A	N/A
1243	Tot Sp NonW 36	N/A	N/A	N/A
	(c) Wideband Category 4.12 COE			
1250	Direct PL 36	N/A	N/A	N/A
1251	Direct Message 36	N/A	N/A	N/A
1252	Joint 36	N/A	N/A	N/A
1253	#MOU 36	N/A	N/A	N/A
1254	Tot Wide 4.12 36	N/A	N/A	N/A
1260	Tot Cat 4.12 36/69		N/A	

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Subject to Separations (b)	State (c)	Interstate (d)	Common Line Pay (e)	Common Line Inside Wire (f)	Common Line BFP (g)
	(3) Category 4.13 COE-Exchange Line Circuit Equipment Excluding Wideband						
	(a) Basic Category 4.13 COE						
1270	#Tot Wrk Loop 36		N/A	N/A	N/A	N/A	N/A
1271	#PL/WATS Loops 36				N/A	N/A	N/A
1272	#Sub/CL Loops 36		N/A	N/A	N/A	N/A	N/A
1273	#Cost Per Loop 36		N/A	N/A	N/A	N/A	N/A
1274	PL/WATS 36				N/A	N/A	N/A
1275	Sub/Common Line 36				N/A	N/A	N/A
1276	#LAF 36 %				N/A	N/A	N/A
1277	Tot Basic 36				N/A	N/A	N/A
	(b) Special Category 4.13 COE						
1280	Direct PL 36				N/A	N/A	N/A
1281	TWX 36				N/A	N/A	N/A
1282	#TWX MOU 36				N/A	N/A	N/A
1283	Tot Sp 4.13 36				N/A	N/A	N/A
1290	Tot Cat 4.13 36/69					N/A	
1300	Tot Cat 4.1 36/69					N/A	
	b) Category 4.2 COE-Interexchange Circuit Equipment						
	(1) Category 4.21-Interexchange Circuit Equipment Furnished to Another Company for Interstate Use						
1310	Furn to Other 36/69		N/A		N/A	N/A	N/A
	(2) Category 4.22 COE-Interexchange Circuit Equipment Used for Wideband Service						
1320	Direct PL 36				N/A	N/A	N/A
1321	Direct Message 36				N/A	N/A	N/A
1322	Joint 36				N/A	N/A	N/A
1323	#CMM 36				N/A	N/A	N/A
1324	Tot Cat 4.22 36/69				N/A	N/A	N/A

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Total Common Line (i)	Traffic Sensitive: Switching (j)	Equal Access (k)	Transport (l)	Information (m)	Total Traffic Sen (n)	Special Access (o)
	(3) Category 4.13 COE-Exchange Line Circuit Equipment Excluding Wideband							
	(a) Basic Category 4.13 COE							
1270	#Tot Wrk Loop 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1271	#PL/WATS Loops 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1272	#Sub/CL Loops 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1273	#Cost Per Loop 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1274	PL/WATS 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1275	Sub/Common Line 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1276	#LAF 36 %	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1277	Tot Basic 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	(b) Special Category 4.13 COE							
1280	Direct PL 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1281	TWX 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1282	#TWX MOU 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1283	Tot Sp 4.13 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1290	Tot Cat 4.13 36/69		N/A	N/A	N/A	N/A	N/A	
1300	Tot Cat 4.1 36/69		N/A	N/A		N/A		
	b) Category 4.2 COE-Interexchange Circuit Equipment							
	(1) Category 4.21-Interexchange Circuit Equipment Furnished to Another Company for Interstate Use							
1310	Furn to Other 36/69	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	(2) Category 4.22 COE-Interexchange Circuit Equipment Used for Wideband Service							
1320	Direct PL 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1321	Direct Message 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1322	Joint 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1323	#CMM 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1324	Tot Cat 4.22 36/69	N/A	N/A	N/A		N/A		

COMPANY: xxxxxxxxxxxxxxxxxxxxxxxxxxxxxx
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PERIOD: From mmm yyyy To mmm yyyy
COSA: xxxx

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Total Access (p)	Billing & Collection (q)	IX (r)

(3) Category 4.13 COE-Exchange Line Circuit Equipment Excluding Wideband

(a) Basic Category 4.13 COE

1270	#Tot Wrk Loop 36	N/A	N/A	N/A
1271	#PL/WATS Loops 36	N/A	N/A	N/A
1272	#Sub/CL Loops 36	N/A	N/A	N/A
1273	#Cost Per Loop 36	N/A	N/A	N/A
1274	PL/WATS 36	N/A	N/A	N/A
1275	Sub/Common Line 36	N/A	N/A	N/A
1276	#LAF 36 %	N/A	N/A	N/A
1277	Tot Basic 36	N/A	N/A	N/A

(b) Special Category 4.13 COE

1280	Direct PL 36	N/A	N/A	N/A
1281	TWX 36	N/A	N/A	N/A
1282	#TWX MOU 36	N/A	N/A	N/A
1283	Tot Sp 4.13 36	N/A	N/A	N/A
1290	Tot Cat 4.13 36/69		N/A	N/A
1300	Tot Cat 4.1 36/69		N/A	

b) Category 4.2 COE-Interexchange Circuit Equipment

(1) Category 4.21-Interexchange Circuit Equipment Furnished to Another Company for Interstate Use

1310	Furn to Other 36/69	N/A	N/A	

(2) Category 4.22 COE-Interexchange Circuit Equipment Used for Wideband Service

1320	Direct PL 36	N/A	N/A	N/A
1321	Direct Message 36	N/A	N/A	N/A
1322	Joint 36	N/A	N/A	N/A
1323	#CMM 36	N/A	N/A	N/A
1324	Tot Cat 4.22 36/69		N/A	

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Subject to Separations (b)	State (c)	Interstate (d)	Common Line Pay (e)	Common Line Inside Wire (f)	Common Line BFP (g)
	(3) Category 4.23 COE-All Other Interexchange Circuit Equipment						
	(a) Basic Category 4.23 COE						
1330	#Tot Term 36		N/A	N/A	N/A	N/A	N/A
1331	#PL Term 36		N/A	N/A	N/A	N/A	N/A
1332	#Direct Msg Term 36		N/A	N/A	N/A	N/A	N/A
1333	#Joint Msg Term 36		N/A	N/A	N/A	N/A	N/A
1334	#TWX Term 36		N/A	N/A	N/A	N/A	N/A
1335	#Cost Per Term 36		N/A	N/A	N/A	N/A	N/A
1336	Direct PL 36				N/A	N/A	N/A
1337	Direct Message 36				N/A	N/A	N/A
1338	Joint 36				N/A	N/A	N/A
1339	#CM 36				N/A	N/A	N/A
1340	TWX 36				N/A	N/A	N/A
1341	#Connect Min 36				N/A	N/A	N/A
1342	Tot Bas 4.23 36				N/A	N/A	N/A
	(b) Special Category 4.23 COE						
1350	Direct PL 36				N/A	N/A	N/A
1351	TWX 36				N/A	N/A	N/A
1352	#Connect Min 36				N/A	N/A	N/A
1360	Tot Sp 4.23 36				N/A	N/A	N/A
1370	Tot Cat 4.23 36/69				N/A	N/A	N/A
1380	Tot Cat 4.2 36/69				N/A	N/A	N/A
	c) Category 4.3 COE-Host/Remote Message Circuit Equipment						
1390	WATS 36				N/A	N/A	N/A
1391	Direct Mesg 36				N/A	N/A	N/A
1392	Joint Mesg 36				N/A	N/A	N/A
1393	#MOU Miles 36				N/A	N/A	N/A
1394	Tot Cat 4.3 36/69					N/A	
1400	Tot Cat 4 36/69					N/A	
1410	Tot COE 36/69					N/A	

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Total Common Line (i)	Traffic Sensitive: Switching (j)	EqualAccess (k)	Transport (l)	Information (m)	Total Traffic Sen (n)	Special Access (o)
	(3) Category 4.23 COE-All Other Interexchange Circuit Equipment							
	(a) Basic Category 4.23 COE							
1330	#Tot Term 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1331	#PL Term 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1332	#Direct Msg Term 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1333	#Joint Msg Term 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1334	#TWX Term 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1335	#Cost Per Term 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1336	Direct PL 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1337	Direct Message 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1338	Joint 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1339	#CM 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1340	TWX 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1341	#Connect Min 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1342	Tot Bas 4.23 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	(b) Special Category 4.23 COE							
1350	Direct PL 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1351	TWX 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1352	#Connect Min 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1360	Tot Sp 4.23 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1370	Tot Cat 4.23 36/69	N/A	N/A	N/A		N/A		
1380	Tot Cat 4.2 36/69	N/A	N/A	N/A		N/A		
	c) Category 4.3 COE-Host/Remote Message Circuit Equipment							
1390	WATS 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1391	Direct Mesg 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1392	Joint Mesg 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1393	#MOU Miles 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1394	Tot Cat 4.3 36/69		N/A	N/A		N/A		
1400	Tot Cat 4 36/69		N/A	N/A		N/A		
1410	Tot COE 36/69			N/A				

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Total Access (p)	Billing & Collection (q)	IX (r)
	(3) Category 4.23 COE-All Other Interexchange Circuit Equipment			
	(a) Basic Category 4.23 COE			
1330	#Tot Term 36	N/A	N/A	N/A
1331	#PL Term 36	N/A	N/A	N/A
1332	#Direct Msg Term 36	N/A	N/A	N/A
1333	#Joint Msg Term 36	N/A	N/A	N/A
1334	#TWX Term 36	N/A	N/A	N/A
1335	#Cost Per Term 36	N/A	N/A	N/A
1336	Direct PL 36	N/A	N/A	N/A
1337	Direct Message 36	N/A	N/A	N/A
1338	Joint 36	N/A	N/A	N/A
1339	#CM 36	N/A	N/A	N/A
1340	TWX 36	N/A	N/A	N/A
1341	#Connect Min 36	N/A	N/A	N/A
1342	Tot Bas 4.23 36	N/A	N/A	N/A
	(b) Special Category 4.23 COE			
1350	Direct PL 36	N/A	N/A	N/A
1351	TWX 36	N/A	N/A	N/A
1352	#Connect Min 36	N/A	N/A	N/A
1360	Tot Sp 4.23 36	N/A	N/A	N/A
1370	Tot Cat 4.23 36/69		N/A	
1380	Tot Cat 4.2 36/69		N/A	
	c) Category 4.3 COE-Host/Remote Message Circuit Equipment			
1390	WATS 36	N/A	N/A	N/A
1391	Direct Msg 36	N/A	N/A	N/A
1392	Joint Msg 36	N/A	N/A	N/A
1393	#MOU Miles 36	N/A	N/A	N/A
1394	Tot Cat 4.3 36/69		N/A	
1400	Tot Cat 4 36/69		N/A	
1410	Tot COE 36/69		N/A	

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Subject to Separations (b)	State (c)	Interstate (d)	Common Line Pay (e)	Common Line Inside Wire (f)	Common Line BFP (g)
	C. Information Origination/Termination Equipment (IOT)						
	1. Category 1 IOT-Other IOT						
	Part 36 Detail						
1419	Cat 1 DA 36				N/A	N/A	N/A
1420	Oth Less Coinlss 36				N/A	N/A	N/A
1421	#LAF 36 %				N/A	N/A	N/A
1422	Coinless Pay 36				N/A	N/A	N/A
1423	#LEC MOU 36				N/A	N/A	N/A
	Part 69 Detail						
1424	Public Direct 69	N/A	N/A			N/A	N/A
1425	Other IOT 69	N/A	N/A		N/A		
1426	#Equiv Lines 69	N/A	N/A		N/A	N/A	N/A
1427	#LAF 69 %	N/A	N/A		N/A	N/A	N/A
1428	Tot Cat 1 36/69						
	2. Category 2 IOT-New Customer Premises Equipment						
1430	New CPE 36			N/A	N/A	N/A	N/A
1440	Tot IOT Equip 36/69						
	D. Cable and Wire Facilities (C&WF)						
	1. Category 1 C&WF-Exchange Line C&WF						
1450	#Tot Wrk Loop 36		N/A	N/A	N/A	N/A	N/A
1451	#PL/WATS Loops 36		N/A	N/A	N/A	N/A	N/A
1452	#Sub/CL Loops 36		N/A	N/A	N/A	N/A	N/A
1453	#Cost Per Loop 36		N/A	N/A	N/A	N/A	N/A
1454	PL/WATS 36				N/A	N/A	N/A
1455	Sub/Common Lines 36				N/A	N/A	N/A
1456	#1981 SPF 36 %				N/A	N/A	N/A
1457	#Prev Yr ATSPF 36 %				N/A	N/A	N/A
1458	#Current ATSPF 36 %				N/A	N/A	N/A
1459	#LAF 36 %				N/A	N/A	N/A
1460	Tot Cat 1 36/69					N/A	

COMPANY: xxxxxxxxxxxxxxxxxxxxxxxxxxxxxx xxxxxxxxxxx VERSION
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TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Total Common Line (i)	Traffic Sensitive: Switching (j)	Traffic Sensitive: EqualAccess (k)	Traffic Sensitive: Transport (l)	Traffic Sensitive: Information (m)	Total Traffic Sen (n)	Special Access (o)
	C. Information Origination/Termination Equipment (IOT)							
	1. Category 1 IOT-Other IOT							
	Part 36 Detail							
1419	Cat 1 DA 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1420	Oth Less Coinlss 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1421	#LAF 36 %	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1422	Coinless Pay 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1423	#LEC MOU 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	Part 69 Detail							
1424	Public Direct 69		N/A	N/A	N/A	N/A	N/A	N/A
1425	Other IOT 69		N/A	N/A	N/A	N/A	N/A	
1426	#Equiv Lines 69		N/A	N/A	N/A	N/A	N/A	
1427	#LAF 69 %	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1428	Tot Cat 1 36/69		N/A	N/A	N/A	N/A	N/A	
	2. Category 2 IOT-New Customer Premises Equipment							
1430	New CPE 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1440	Tot IOT Equip 36/69		N/A	N/A	N/A	N/A	N/A	
	D. Cable and Wire Facilities (C&WF)							
	1. Category 1 C&WF-Exchange Line C&WF							
1450	#Tot Wrk Loop 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1451	#PL/WATS Loops 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1452	#Sub/CL Loops 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1453	#Cost Per Loop 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1454	PL/WATS 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1455	Sub/Common Lines 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1456	#1981 SPF 36 %	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1457	#Prev Yr ATSPF 36 %	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1458	#Current ATSPF 36 %	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1459	#LAF 36 %	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1460	Tot Cat 1 36/69		N/A	N/A	N/A	N/A	N/A	

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Total Access (p)	Billing & Collection (q)	IX (r)
	C. Information Origination/Termination Equipment (IOT)			
	1. Category 1 IOT-Other IOT			
	Part 36 Detail			
1419	Cat 1 DA 36	N/A	N/A	N/A
1420	Oth Less Coinlss 36	N/A	N/A	N/A
1421	#LAF 36 %	N/A	N/A	N/A
1422	Coinless Pay 36	N/A	N/A	N/A
1423	#LEC MOU 36	N/A	N/A	N/A
	Part 69 Detail			
1424	Public Direct 69		N/A	N/A
1425	Other IOT 69		N/A	N/A
1426	#Equiv Lines 69		N/A	N/A
1427	#LAF 69 %	N/A	N/A	N/A
1428	Tot Cat 1 36/69		N/A	N/A
	2. Category 2 IOT-New Customer Premises Equipment			
1430	New CPE 36	N/A	N/A	N/A
1440	Tot IOT Equip 36/69		N/A	N/A
	D. Cable and Wire Facilities (C&WF)			
	1. Category 1 C&WF-Exchange Line C&WF			
1450	#Tot Wrk Loop 36	N/A	N/A	N/A
1451	#PL/WATS Loops 36	N/A	N/A	N/A
1452	#Sub/CL Loops 36	N/A	N/A	N/A
1453	#Cost Per Loop 36	N/A	N/A	N/A
1454	PL/WATS 36	N/A	N/A	N/A
1455	Sub/Common Lines 36	N/A	N/A	N/A
1456	#1981 SPF 36 %	N/A	N/A	N/A
1457	#Prev Yr ATSPF 36 %	N/A	N/A	N/A
1458	#Current ATSPF 36 %	N/A	N/A	N/A
1459	#LAF 36 %	N/A	N/A	N/A
1460	Tot Cat 1 36/69		N/A	N/A

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Subject to Separations (b)	State (c)	Interstate (d)	Common Line Pay (e)	Common Line Inside Wire (f)	Common Line BFP (g)
	2. Category 2 C&WF-Wideband and Exchange Trunk C&WF						
	a) Exchange Trunk Category 2 C&WF (Non-Wideband)						
1470	Direct PL 36				N/A	N/A	N/A
1471	Direct Message 36				N/A	N/A	N/A
1472	Joint 36				N/A	N/A	N/A
1473	#MOU 36				N/A	N/A	N/A
1474	Tot Non-W Ex Tnk 36				N/A	N/A	N/A
	b) Wideband Category 2 C&WF						
1480	Direct PL 36				N/A	N/A	N/A
1481	Direct Message 36				N/A	N/A	N/A
1482	Joint 36				N/A	N/A	N/A
1483	#MOU 36				N/A	N/A	N/A
1484	Tot Wide Cat 2 36				N/A	N/A	N/A
1485	Tot Cat 2 36/69				N/A	N/A	N/A
	3. Category 3 C&WF-Interexchange C&WF						
1490	#Tot Cir Mi 36		N/A	N/A	N/A	N/A	N/A
1491	#PL Cir Mi 36		N/A	N/A	N/A	N/A	N/A
1492	#Dir Msg Cir Mi 36		N/A	N/A	N/A	N/A	N/A
1493	#Joint Cir Mi 36		N/A	N/A	N/A	N/A	N/A
1494	#TWX Cir Mi 36		N/A	N/A	N/A	N/A	N/A
1495	#Cost Per Cir Mi 36		N/A	N/A	N/A	N/A	N/A
1496	Direct PL 36				N/A	N/A	N/A
1497	Direct Message 36				N/A	N/A	N/A
1498	Joint Message 36				N/A	N/A	N/A
1499	#CMM 36				N/A	N/A	N/A
1500	TWX 36				N/A	N/A	N/A
1501	#CMM 36				N/A	N/A	N/A
1510	Tot Cat 3 36/69				N/A	N/A	N/A

COMPANY: xxxxxxxxxxxxxxxxxxxxxxxxxxxxxx
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TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Total Common Line (i)	Traffic Sensitive: Switching (j)	Traffic Sensitive: EqualAccess (k)	Traffic Sensitive: Transport (l)	Traffic Sensitive: Information (m)	Total Traffic Sen (n)	Special Access (o)
	2. Category 2 C&WF-Wideband and Exchange Trunk C&WF							
	a) Exchange Trunk Category 2 C&WF (Non-Wideband)							
1470	Direct PL 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1471	Direct Message 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1472	Joint 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1473	#MOU 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1474	Tot Non-W Ex Tnk 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	b) Wideband Category 2 C&WF							
1480	Direct PL 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1481	Direct Message 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1482	Joint 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1483	#MOU 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1484	Tot Wide Cat 2 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1485	Tot Cat 2 36/69	N/A	N/A	N/A		N/A		
	3. Category 3 C&WF-Interexchange C&WF							
1490	#Tot Cir Mi 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1491	#PL Cir Mi 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1492	#Dir Msg Cir Mi 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1493	#Joint Cir Mi 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1494	#TWX Cir Mi 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1495	#Cost Per Cir Mi 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1496	Direct PL 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1497	Direct Message 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1498	Joint Message 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1499	#CMM 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1500	TWX 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1501	#CMM 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1510	Tot Cat 3 36/69	N/A	N/A	N/A		N/A		

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Total Access (p)	Billing & Collection (q)	IX (r)
	2. Category 2 C&WF-Wideband and Exchange Trunk C&WF			
	a) Exchange Trunk Category 2 C&WF (Non-Wideband)			
1470	Direct PL 36	N/A	N/A	N/A
1471	Direct Message 36	N/A	N/A	N/A
1472	Joint 36	N/A	N/A	N/A
1473	#MOU 36	N/A	N/A	N/A
1474	Tot Non-W Ex Tnk 36	N/A	N/A	N/A
	b) Wideband Category 2 C&WF			
1480	Direct PL 36	N/A	N/A	N/A
1481	Direct Message 36	N/A	N/A	N/A
1482	Joint 36	N/A	N/A	N/A
1483	#MOU 36	N/A	N/A	N/A
1484	Tot Wide Cat 2 36	N/A	N/A	N/A
1485	Tot Cat 2 36/69		N/A	
	3. Category 3 C&WF-Interexchange C&WF			
1490	#Tot Cir Mi 36	N/A	N/A	N/A
1491	#PL Cir Mi 36	N/A	N/A	N/A
1492	#Dir Msg Cir Mi 36	N/A	N/A	N/A
1493	#Joint Cir Mi 36	N/A	N/A	N/A
1494	#TWX Cir Mi 36	N/A	N/A	N/A
1495	#Cost Per Cir Mi 36	N/A	N/A	N/A
1496	Direct PL 36	N/A	N/A	N/A
1497	Direct Message 36	N/A	N/A	N/A
1498	Joint Message 36	N/A	N/A	N/A
1499	#CMM 36	N/A	N/A	N/A
1500	TWX 36	N/A	N/A	N/A
1501	#CMM 36	N/A	N/A	N/A
1510	Tot Cat 3 36/69		N/A	

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Subject to Separations (b)	State (c)	Interstate (d)	Common Line Pay (e)	Common Line Inside Wire (f)	Common Line BFP (g)
	4. Category 4 C&WF-Host/Remote Message C&WF						
1520	WATS 36				N/A	N/A	N/A
1521	Direct Message 36				N/A	N/A	N/A
1522	Joint Message 36				N/A	N/A	N/A
1523	#MOU Miles 36				N/A	N/A	N/A
1524	Tot Cat 4 36/69					N/A	
1530	Tot C&WF 36/69					N/A	
1540	Tot TelPt - AA36/69						
	III. Other Telecommunications Property						
	A. Tangible Assets						
	1. Capital Leases						
2000	Direct Cap Leas 36				N/A	N/A	N/A
2001	GSF 36/69						
2002	#GSF 36				N/A	N/A	N/A
2003	COE Switch 36/69					N/A	
2004	#COE Switch 36				N/A	N/A	N/A
2005	Op Sys 36/69					N/A	
2006	#Op Sys 36				N/A	N/A	N/A
2007	Transmission 36/69					N/A	
2008	#Transmission 36				N/A	N/A	N/A
2009	IOT 36/69						
2010	#IOT 36				N/A	N/A	N/A
2011	C&WF 36/69					N/A	
2012	#C&WF 36				N/A	N/A	N/A
2013	Alloc Cap Lease 69	N/A	N/A				
2014	#TPIS 69	N/A	N/A				
2020	Tot Cap Lease 36/69						

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Total Common Line (i)	Traffic Sensitive: Switching (j)	Traffic Sensitive: EqualAccess (k)	Traffic Sensitive: Transport (l)	Traffic Sensitive: Information (m)	Total Traffic Sen (n)	Special Access (o)
	4. Category 4 C&WF-Host/Remote Message C&WF							
1520	WATS 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1521	Direct Message 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1522	Joint Message 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1523	#MOU Miles 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1524	Tot Cat 4 36/69		N/A	N/A		N/A		
1530	Tot C&WF 36/69		N/A	N/A		N/A		
1540	Tot TelPt - AA36/69							
	III. Other Telecommunications Property							
	A. Tangible Assets							
	1. Capital Leases							
2000	Direct Cap Leas 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
2001	GSF 36/69			N/A				
2002	#GSF 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
2003	COE Switch 36/69			N/A				
2004	#COE Switch 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
2005	Op Sys 36/69			N/A				
2006	#Op Sys 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
2007	Transmission 36/69			N/A				
2008	#Transmission 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
2009	IOT 36/69		N/A	N/A	N/A	N/A	N/A	
2010	#IOT 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
2011	C&WF 36/69		N/A	N/A		N/A		
2012	#C&WF 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
2013	Alloc Cap Lease 69			N/A				
2014	#TPIS 69			N/A				
2020	Tot Cap Lease 36/69			N/A				

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TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Total Access (p)	Billing & Collection (q)	IX (r)
	4. Category 4 C&WF-Host/Remote Message C&WF			
1520	WATS 36	N/A	N/A	N/A
1521	Direct Message 36	N/A	N/A	N/A
1522	Joint Message 36	N/A	N/A	N/A
1523	#MOU Miles 36	N/A	N/A	N/A
1524	Tot Cat 4 36/69		N/A	
1530	Tot C&WF 36/69		N/A	
1540	Tot TelPt - AA36/69			
	III. Other Telecommunications Property			
	A. Tangible Assets			
	1. Capital Leases			
2000	Direct Cap Leas 36	N/A	N/A	N/A
2001	GSF 36/69			
2002	#GSF 36	N/A	N/A	N/A
2003	COE Switch 36/69		N/A	
2004	#COE Switch 36	N/A	N/A	N/A
2005	Op Sys 36/69		N/A	
2006	#Op Sys 36	N/A	N/A	N/A
2007	Transmission 36/69		N/A	
2008	#Transmission 36	N/A	N/A	N/A
2009	IOT 36/69		N/A	N/A
2010	#IOT 36	N/A	N/A	N/A
2011	C&WF 36/69		N/A	
2012	#C&WF 36	N/A	N/A	N/A
2013	Alloc Cap Lease 69			
2014	#TPIS 69			
2020	Tot Cap Lease 36/69			

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Subject to Separations (b)	State (c)	Interstate (d)	Common Line Pay (e)	Common Line Inside Wire (f)	Common Line BFP (g)
	2. Leasehold Improvements						
2070	GSF 36				N/A	N/A	N/A
2071	#GSF 36				N/A	N/A	N/A
2080	COE Switch 36				N/A	N/A	N/A
2081	#COE Switch 36				N/A	N/A	N/A
2090	Op Sys 36				N/A	N/A	N/A
2091	#Op Sys 36				N/A	N/A	N/A
2100	Transmission 36				N/A	N/A	N/A
2101	#Transmission 36				N/A	N/A	N/A
2110	IOT 36				N/A	N/A	N/A
2111	#IOT 36				N/A	N/A	N/A
2120	C&WF 36				N/A	N/A	N/A
2121	#C&WF 36				N/A	N/A	N/A
2130	Tot Leas Imp 69	N/A	N/A				
2131	#Combined Inv 69	N/A	N/A				
2140	Tot Leas Imp 36/69						
2150	Tot Tang Ass 36/69						
	B. Intangible Assets						
2160	Intan Ass 36/69						
2161	#TPIS Less Intan 36				N/A	N/A	N/A
2162	#Combined Inv 69	N/A	N/A				
	C. Other Telecommunications Plant						
2190	PHFTU 36/69						
2191	TPUC Short 36/69						
2192	TPUC Long 36/69						
2193	Tel Plant Adj 36/69						
2194	#TPIS 36/69						
2195		N/A	N/A	N/A	N/A	N/A	N/A
2196		N/A	N/A	N/A	N/A	N/A	N/A
2197		N/A	N/A	N/A	N/A	N/A	N/A
2198		N/A	N/A	N/A	N/A	N/A	N/A
2199		N/A	N/A	N/A	N/A	N/A	N/A
2200		N/A	N/A	N/A	N/A	N/A	N/A
2201		N/A	N/A	N/A	N/A	N/A	N/A
2202		N/A	N/A	N/A	N/A	N/A	N/A
2203	Tot Oth Plant 36/69						

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TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Total Common Line (i)	Traffic Sensitive: Switching (j)	EqualAccess (k)	Transport (l)	Information (m)	Total Traffic Sen (n)	Special Access (o)
	2. Leasehold Improvements							
2070	GSF 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
2071	#GSF 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
2080	COE Switch 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
2081	#COE Switch 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
2090	Op Sys 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
2091	#Op Sys 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
2100	Transmission 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
2101	#Transmission 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
2110	IOT 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
2111	#IOT 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
2120	C&WF 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
2121	#C&WF 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
2130	Tot Leas Imp 69			N/A				
2131	#Combined Inv 69			N/A				
2140	Tot Leas Imp 36/69			N/A				
2150	Tot Tang Ass 36/69			N/A				
	B. Intangible Assets							
2160	Intan Ass 36/69			N/A				
2161	#TPIS Less Intan 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
2162	#Combined Inv 69			N/A				
	C. Other Telecommunications Plant							
2190	PHFTU 36/69			N/A				
2191	TPUC Short 36/69			N/A				
2192	TPUC Long 36/69			N/A				
2193	Tel Plant Adj 36/69			N/A				
2194	#TPIS 36/69			N/A				
2195		N/A	N/A	N/A	N/A	N/A	N/A	N/A
2196		N/A	N/A	N/A	N/A	N/A	N/A	N/A
2197		N/A	N/A	N/A	N/A	N/A	N/A	N/A
2198		N/A	N/A	N/A	N/A	N/A	N/A	N/A
2199		N/A	N/A	N/A	N/A	N/A	N/A	N/A
2200		N/A	N/A	N/A	N/A	N/A	N/A	N/A
2201		N/A	N/A	N/A	N/A	N/A	N/A	N/A
2202		N/A	N/A	N/A	N/A	N/A	N/A	N/a
2203	Tot Oth Plant 36/69			N/A				

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Total Access (p)	Billing & Collection (q)	IX (r)
	2. Leasehold Improvements			
2070	GSF 36	N/A	N/A	N/A
2071	#GSF 36	N/A	N/A	N/A
2080	COE Switch 36	N/A	N/A	N/A
2081	#COE Switch 36	N/A	N/A	N/A
2090	Op Sys 36	N/A	N/A	N/A
2091	#Op Sys 36	N/A	N/A	N/A
2100	Transmission 36	N/A	N/A	N/A
2101	#Transmission 36	N/A	N/A	N/A
2110	IOT 36	N/A	N/A	N/A
2111	#IOT 36	N/A	N/A	N/A
2120	C&WF 36	N/A	N/A	N/A
2121	#C&WF 36	N/A	N/A	N/A
2130	Tot Leas Imp 69			
2131	#Combined Inv 69			
2140	Tot Leas Imp 36/69			
2150	Tot Tang Ass 36/69			
	B. Intangible Assets			
2160	Intan Ass 36/69			
2161	#TPIS Less Intan 36	N/A	N/A	N/A
2162	#Combined Inv 69			
	C. Other Telecommunications Plant			
2190	PHFTU 36/69		N/A	
2191	TPUC Short 36/69		N/A	
2192	TPUC Long 36/69		N/A	
2193	Tel Plant Adj 36/69		N/A	
2194	#TPIS 36/69		N/A	
2195		N/A	N/A	N/A
2196		N/A	N/A	N/A
2197		N/A	N/A	N/A
2198		N/A	N/A	N/A
2199		N/A	N/A	N/A
2200		N/A	N/A	N/A
2201		N/A	N/A	N/A
2202		N/A	N/A	N/A
2203	Tot Oth Plant 36/69			

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Subject to Separations (b)	State (c)	Interstate (d)	Common Line Pay (e)	Common Line Inside Wire (f)	Common Line BFP (g)
	D. Rural Telephone Bank Stock						
2210	Cls B RTB Stk 36/69						
2211	#TPIS 36				N/A	N/A	N/A
2212	#Combined Inv 69	N/A	N/A				
	E. Inventories and Cash Working Capital						
	1. Inventories						
2220	CPE Inventories 36			N/A	N/A	N/A	N/A
2221	All Oth Invtr 36/69						
2222	#C&WF 36				N/A	N/A	N/A
2223	#Combined Inv 69	N/A	N/A				
2224	Tot Invtr 36/69						
	2. Cash Working Capital						
2230	CWC 36/65/69	N/A	N/A				
2231	#Combined Inv 69	N/A	N/A				
2240	Tot O Tel Pro 36/69						
	F. FCC Investment Adjustment						
2250	FCC Inv Adj 65	N/A	N/A				
2260	Tot Tel Pro 36/69						
	IV. Reserves and Deferrals						
	A. Other Jursidictional Assets						
3000	Other Jur Ass 36			N/A	N/A	N/A	N/A

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Total Common Line (i)	Traffic Sensitive: Switching (j)	Traffic Sensitive: EqualAccess (k)	Traffic Sensitive: Transport (l)	Traffic Sensitive: Information (m)	Total Traffic Sen (n)	Special Access (o)
	D. Rural Telephone Bank Stock							
2210	Cls B RTB Stk 36/69			N/A				
2211	#TPIS 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
2212	#Combined Inv 69			N/A				
	E. Inventories and Cash Working Capital							
	1. Inventories							
2220	CPE Inventories 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
2221	All Oth Invtr 36/69			N/A				
2222	#C&WF 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
2223	#Combined Inv 69			N/A				
2224	Tot Invtr 36/69			N/A				
	2. Cash Working Capital							
2230	CWC 36/65/69			N/A				
2231	#Combined Inv 69			N/A				
2240	Tot O Tel Pro 36/69							
	F. FCC Investment Adjustment							
2250	FCC Inv Adj 65							
2260	Tot Tel Pro 36/69							
	IV. Reserves and Deferrals							
	A. Other Jursidictional Assets							
3000	Other Jur Ass 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A

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TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Total Access (p)	Billing & Collection (q)	IX (r)
	D. Rural Telephone Bank Stock			
2210	Cls B RTB Stk 36/69			
2211	#TPIS 36	N/A	N/A	N/A
2212	#Combined Inv 69			
	E. Inventories and Cash Working Capital			
	1. Inventories			
2220	CPE Inventories 36	N/A	N/A	N/A
2221	All Oth Invtr 36/69			
2222	#C&WF 36	N/A	N/A	N/A
2223	#Combined Inv 69			
2224	Tot Invtr 36/69			
	2. Cash Working Capital			
2230	CWC 36/65/69			
2231	#Combined Inv 69			
2240	Tot O Tel Pro 36/69			
	F. FCC Investment Adjustment			
2250	FCC Inv Adj 65			
2260	Tot Tel Pro 36/69			
	IV. Reserves and Deferrals			
	A. Other Jursidictional Assets			
3000	Other Jur Ass 36	N/A	N/A	N/A

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Subject to Separations (b)	State (c)	Interstate (d)	Common Line Pay (e)	Common Line Inside Wire (f)	Common Line BFP (g)
	B. Accumulated Depreciation						
3010	GSF 36/69						
3011	#GSF 36/69						
3020	Switching 36/69					N/A	
3021	#Switching 36/69					N/A	
3030	Op Sys 36/69					N/A	
3031	#Op Sys 36/69					N/A	
3040	Transmission 36/69					N/A	
3041	#Transmission 36/69					N/A	
3050	IOT 36/69						
3051	#IOT 36/69						
3060	C&WF 36/69					N/A	
3061	#C&WF 36/69					N/A	
3070	PHFTU 36/69						
3071	#PHFTU 36/69						
3080	Tot Acc Depr 36/69						
	C. Accumulated Amortization						
	1. Accumulated Amortization of Tangible Assets						
	a) Accumulated Amortization of Capital Leases						
3090	GSF 36/69						
3091	#GSF 36/69						
3100	Switching 36/69					N/A	
3101	#Switch Eqpt 36/69					N/A	
3110	Op Sys 36/69					N/A	
3111	#Op Sys 36/69					N/A	
3120	Transmission 36/69					N/A	
3121	#Transmission 36/69					N/A	
3130	IOT 36/69						
3131	#IOT 36/69						
3140	C&WF 36/69					N/A	
3141	#C&WF 36/69					N/A	
3150	Tot Cap Lease 36/69						

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Total Common Line (i)	Traffic Sensitive: Switching (j)	EqualAccess (k)	Transport (l)	Information (m)	Total Traffic Sen (n)	Special Access (o)
	B. Accumulated Depreciation							
3010	GSF 36/69			N/A				
3011	#GSF 36/69			N/A				
3020	Switching 36/69			N/A				
3021	#Switching 36/69			N/A				
3030	Op Sys 36/69			N/A				
3031	#Op Sys 36/69			N/A				
3040	Transmission 36/69			N/A				
3041	#Transmission 36/69			N/A				
3050	IOT 36/69		N/A	N/A	N/A	N/A	N/A	
3051	#IOT 36/69		N/A	N/A	N/A	N/A	N/A	
3060	C&WF 36/69		N/A	N/A		N/A		
3061	#C&WF 36/69		N/A	N/A		N/A		
3070	PHFTU 36/69			N/A				
3071	#PHFTU 36/69			N/A				
3080	Tot Acc Depr 36/69							
	C. Accumulated Amortization							
	1. Accumulated Amortization of Tangible Assets							
	a) Accumulated Amortization of Capital Leases							
3090	GSF 36/69			N/A				
3091	#GSF 36/69			N/A				
3100	Switching 36/69			N/A				
3101	#Switch Eqpt 36/69			N/A				
3110	Op Sys 36/69			N/A				
3111	#Op Sys 36/69			N/A				
3120	Transmission 36/69			N/A				
3121	#Transmission 36/69			N/A				
3130	IOT 36/69		N/A	N/A	N/A	N/A	N/A	
3131	#IOT 36/69		N/A	N/A	N/A	N/A	N/A	
3140	C&WF 36/69		N/A	N/A		N/A		
3141	#C&WF 36/69		N/A	N/A		N/A		
3150	Tot Cap Lease 36/69			N/A				

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Total Access (p)	Billing & Collection (q)	IX (r)
	B. Accumulated Depreciation			
3010	GSF 36/69			
3011	#GSF 36/69			
3020	Switching 36/69		N/A	
3021	#Switching 36/69		N/A	
3030	Op Sys 36/69		N/A	
3031	#Op Sys 36/69		N/A	
3040	Transmission 36/69		N/A	
3041	#Transmission 36/69		N/A	
3050	IOT 36/69		N/A	N/A
3051	#IOT 36/69		N/A	N/A
3060	C&WF 36/69		N/A	
3061	#C&WF 36/69		N/A	
3070	PHFTU 36/69		N/A	N/A
3071	#PHFTU 36/69		N/A	N/A
3080	Tot Acc Depr 36/69			
	C. Accumulated Amortization			
	1. Accumulated Amortization of Tangible Assets			
	a) Accumulated Amortization of Capital Leases			
3090	GSF 36/69			
3091	#GSF 36/69			
3100	Switching 36/69		N/A	
3101	#Switch Eqpt 36/69		N/A	
3110	Op Sys 36/69		N/A	
3111	#Op Sys 36/69		N/A	
3120	Transmission 36/69		N/A	
3121	#Transmission 36/69		N/A	
3130	IOT 36/69		N/A	N/A
3131	#IOT 36/69		N/A	N/A
3140	C&WF 36/69		N/A	
3141	#C&WF 36/69		N/A	
3150	Tot Cap Lease 36/69			

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Subject to Separations (b)	State (c)	Interstate (d)	Common Line Pay (e)	Common Line Inside Wire (f)	Common Line BFP (g)
	b) Accumulated Amortization of Leasehold Improvements						
3160	GSF 36/69						
3161	#GSF 36/69						
3170	Switching 36/69					N/A	
3171	#Switching 36/69					N/A	
3180	Op Sys 36/69					N/A	
3181	#Op Sys 36/69					N/A	
3190	Transmission 36/69					N/A	
3191	#Transmission 36/69					N/A	
3200	IOT 36/69						
3201	#IOT 36/69						
3210	C&WF 36/69					N/A	
3211	#C&WF 36/69					N/A	
3220	Tot Lease Imp 36/69						
3230	Tot Tang Ass 36/69						
	2. Accumulated Amortization of Intangible Assets and Other Accumulated Amortization						
3240	Intangibles 36/69						
3241	#Intan Ass 36/69						
3250	Other 36/69						
3251	#Assd Inv 36/69						
3260	Tot Int/Oth 36/69						
3270	Tot Acc Am 36/69						

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Total Common Line (i)	Traffic Sensitive: Switching (j)	Equal Access (k)	Transport (l)	Information (m)	Total Traffic Sen (n)	Special Access (o)
	b) Accumulated Amortization of Leasehold Improvements							
3160	GSF 36/69			N/A				
3161	#GSF 36/69			N/A				
3170	Switching 36/69			N/A				
3171	#Switching 36/69			N/A				
3180	Op Sys 36/69			N/A				
3181	#Op Sys 36/69			N/A				
3190	Transmission 36/69			N/A				
3191	#Transmission 36/69			N/A				
3200	IOT 36/69		N/A	N/A	N/A	N/A	N/A	
3201	#IOT 36/69		N/A	N/A	N/A	N/A	N/A	
3210	C&WF 36/69		N/A	N/A		N/A		
3211	#C&WF 36/69		N/A	N/A		N/A		
3220	Tot Lease Imp 36/69			N/A				
3230	Tot Tang Ass 36/69			N/A				
	2. Accumulated Amortization of Intangible Assets and Other Accumulated Amortization							
3240	Intangibles 36/69			N/A				
3241	#Intan Ass 36/69			N/A				
3250	Other 36/69			N/A				
3251	#Assd Inv 36/69			N/A				
3260	Tot Int/Oth 36/69			N/A				
3270	Tot Acc Am 36/69							

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TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Total Access (p)	Billing & Collection (q)	IX (r)
	b) Accumulated Amortization of Leasehold Improvements			
3160	GSF 36/69			
3161	#GSF 36/69			
3170	Switching 36/69		N/A	
3171	#Switching 36/69		N/A	
3180	Op Sys 36/69		N/A	
3181	#Op Sys 36/69		N/A	
3190	Transmission 36/69		N/A	
3191	#Transmission 36/69		N/A	
3200	IOT 36/69		N/A	N/A
3201	#IOT 36/69		N/A	N/A
3210	C&WF 36/69		N/A	
3211	#C&WF 36/69		N/A	
3220	Tot Lease Imp 36/69			
3230	Tot Tang Ass 36/69			
	2. Accumulated Amortization of Intangible Assets and Other Accumulated			
3240	Intangibles 36/69			
3241	#Intan Ass 36/69			
3250	Other 36/69			
3251	#Assd Inv 36/69			
3260	Tot Int/Oth 36/69			
3270	Tot Acc Am 36/69			

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Subject to Separations (b)	State (c)	Interstate (d)	Common Line Pay (e)	Common Line Inside Wire (f)	Common Line BFP (g)
	D. Net Current Deferred Operating Income Taxes						
3280	GSF 36/69						
3281	#GSF 36/69						
3290	Switching 36/69					N/A	
3291	#Switching 36/69					N/A	
3300	Op Sys 36/69					N/A	
3301	#Op Sys 36/69					N/A	
3310	Transmission 36/69					N/A	
3311	#Transmission 36/69					N/A	
3320	IOT 36/69						
3321	#IOT 36/69						
3330	C&WF 36/69					N/A	
3331	#C&WF 36/69					N/A	
3332	Other 36/69						
3340	Tot Net Cur 36/69						
	E. Net NonCurrent Deferred Operating Income Taxes						
3350	GSF 36/69						
3351	#GSF 36/69						
3360	Switching 36/69					N/A	
3361	#Switching 36/69					N/A	
3370	Op Sys 36/69					N/A	
3371	#Op Sys 36/69					N/A	
3380	Transmission 36/69					N/A	
3381	#Transmission 36/69					N/A	
3390	IOT 36/69						
3391	#IOT 36/69						
3400	C&WF 36/69					N/A	
3401	#C&WF 36/69					N/A	
3402	Other 36/69						
3410	Tot Net NonC 36/69						
	F. Other Jurisdictional Liabilities and Deferred Credits and Reserve Adjustments						
3420	Oth Juris L&DCrs 36			N/A	N/A	N/A	N/A
3421	FCC Reserve Adj 65	N/A	N/A				
3422	Cust Dep 36/65/69						
3423	Other Def Crs 36/69						
3430	Tot Res & Def 36/69						

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Total Common Line (i)	Traffic Sensitive: Switching (j)	Traffic Sensitive: EqualAccess (k)	Traffic Sensitive: Transport (l)	Traffic Sensitive: Information (m)	Total Traffic Sen (n)	Special Access (o)
	D. Net Current Deferred Operating Income Taxes							
3280	GSF 36/69			N/A				
3281	#GSF 36/69			N/A				
3290	Switching 36/69			N/A				
3291	#Switching 36/69			N/A				
3300	Op Sys 36/69			N/A				
3301	#Op Sys 36/69			N/A				
3310	Transmission 36/69			N/A				
3311	#Transmission 36/69			N/A				
3320	IOT 36/69		N/A	N/A	N/A	N/A	N/A	
3321	#IOT 36/69		N/A	N/A	N/A	N/A	N/A	
3330	C&WF 36/69		N/A	N/A		N/A		
3331	#C&WF 36/69		N/A	N/A		N/A		
3332	Other 36/69			N/A				
3340	Tot Net Cur 36/69							
	E. Net NonCurrent Deferred Operating Income Taxes							
3350	GSF 36/69			N/A				
3351	#GSF 36/69			N/A				
3360	Switching 36/69			N/A				
3361	#Switching 36/69			N/A				
3370	Op Sys 36/69			N/A				
3371	#Op Sys 36/69			N/A				
3380	Transmission 36/69			N/A				
3381	#Transmission 36/69			N/A				
3390	IOT 36/69		N/A	N/A	N/A	N/A	N/A	
3391	#IOT 36/69		N/A	N/A	N/A	N/A	N/A	
3400	C&WF 36/69		N/A	N/A		N/A		
3401	#C&WF 36/69		N/A	N/A		N/A		
3402	Other 36/69			N/A				
3410	Tot Net NonC 36/69							
	F. Other Jurisdictional Liabilities and Deferred Credits and Reserve Adjustments							
3420	Oth Juris L&DCrs 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
3421	FCC Reserve Adj 65			N/A				
3422	Cust Dep 36/65/69			N/A				
3423	Other Def Crs 36/69			N/A				
3430	Tot Res & Def 36/69							

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STUDY AREA: xxxxxxxxxxxxxxxxxxx
PERIOD: From mmm yyyy To mmm yyyy
COSA: xxxx

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Total Access (p)	Billing & Collection (q)	IX (r)
	D. Net Current Deferred Operating Income Taxes			
3280	GSF 36/69			
3281	#GSF 36/69			
3290	Switching 36/69		N/A	
3291	#Switching 36/69		N/A	
3300	Op Sys 36/69		N/A	
3301	#Op Sys 36/69		N/A	
3310	Transmission 36/69		N/A	
3311	#Transmission 36/69		N/A	
3320	IOT 36/69		N/A	N/A
3321	#IOT 36/69		N/A	N/A
3330	C&WF 36/69		N/A	
3331	#C&WF 36/69		N/A	
3332	Other 36/69			
3340	Tot Net Cur 36/69			
	E. Net NonCurrent Deferred Operating Income Taxes			
3350	GSF 36/69			
3351	#GSF 36/69			
3360	Switching 36/69		N/A	
3361	#Switching 36/69		N/A	
3370	Op Sys 36/69		N/A	
3371	#Op Sys 36/69		N/A	
3380	Transmission 36/69		N/A	
3381	#Transmission 36/69		N/A	
3390	IOT 36/69		N/A	N/A
3391	#IOT 36/69		N/A	N/A
3400	C&WF 36/69		N/A	
3401	#C&WF 36/69		N/A	
3402	Other 36/69			
3410	Tot Net NonC 36/69			
	F. Other Jurisdictional Liabilities and Deferred Credits and Reserve Adjustments			
3420	Oth Juris L&DCrs 36	N/A	N/A	N/A
3421	FCC Reserve Adj 65			
3422	Cust Dep 36/65/69			
3423	Other Def Crs 36/69			
3430	Tot Res & Def 36/69			

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Subject to Separations (b)	State (c)	Interstate (d)	Common Line Pay (e)	Common Line Inside Wire (f)	Common Line BFP (g)
	V. Operating Revenues and Certain Income Accounts						
	A. Operating Revenues						
	1. Basic Local Service Revenues						
4000	Local PL-Broad 36				N/A	N/A	N/A
4001	FX-CCSA 36				N/A	N/A	N/A
4002	Wideband Msg&TWX 36				N/A	N/A	N/A
4003	$MOU 36				N/A	N/A	N/A
4004	All Other 36				N/A	N/A	N/A
4005	Tot Bas Lcl 36/69				N/A	N/A	N/A
	2. Network Access Service Revenues						
4010	End User 36		N/A		N/A	N/A	N/A
4011	Switched Access 36		N/A		N/A	N/A	N/A
4012	Special Access 36		N/A		N/A	N/A	N/A
4013	State Access 36			N/A	N/A	N/A	N/A
4014	Tot Netwk Acc 36/69				N/A	N/A	N/A
	3. Long Distance Message Service Revenues						
4020	Wideband Msg&TWX 36				N/A	N/A	N/A
4021	$MOU 36				N/A	N/A	N/A
4022	LD PL-Broad 36				N/A	N/A	N/A
4023	Other LD Msg 36				N/A	N/A	N/A
4024	Tot LD Msg 36/69				N/A	N/A	N/A
	4. Miscellaneous Revenues						
4030	Directory 36				N/A	N/A	N/A
4031	Billing & Coll 36				N/A	N/A	N/A
4032	All Other Misc 36				N/A	N/A	N/A
4033	Tot Misc 36/69				N/A	N/A	N/A
	5. Uncollectible Revenues						
4040	Uncollectible 36/69				N/A	N/A	N/A
4050	Tot Rev ls Unc36/69				N/A	N/A	N/A

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Total Common Line (i)	Traffic Sensitive: Switching (j)	Traffic Sensitive: EqualAccess (k)	Traffic Sensitive: Transport (l)	Traffic Sensitive: Information (m)	Total Traffic Sen (n)	Special Access (o)
	V. Operating Revenues and Certain Income Accounts							
	A. Operating Revenues							
	1. Basic Local Service Revenues							
4000	Local PL-Broad 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
4001	FX-CCSA 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
4002	Wideband Msg&TWX 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
4003	$MOU 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
4004	All Other 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
4005	Tot Bas Lcl 36/69	N/A	N/A	N/A	N/A	N/A	N/A	
	2. Network Access Service Revenues							
4010	End User 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
4011	Switched Access 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
4012	Special Access 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
4013	State Access 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
4014	Tot Netwk Acc 36/69							
	3. Long Distance Message Service Revenues							
4020	Wideband Msg&TWX 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
4021	$MOU 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
4022	LD PL-Broad 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
4023	Other LD Msg 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
4024	Tot LD Msg 36/69							
	4. Miscellaneous Revenues							
4030	Directory 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
4031	Billing & Coll 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
4032	All Other Misc 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
4033	Tot Misc 36/69			N/A				
	5. Uncollectible Revenues							
4040	Uncollectible 36/69							
4050	Tot Rev ls Unc36/69							

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Total Access (p)	Billing & Collection (q)	IX (r)

V. Operating Revenues and Certain Income Accounts

A. Operating Revenues

1. Basic Local Service Revenues

4000	Local PL-Broad 36	N/A	N/A	N/A
4001	FX-CCSA 36	N/A	N/A	N/A
4002	Wideband Msg&TWX 36	N/A	N/A	N/A
4003	$MOU 36	N/A	N/A	N/A
4004	All Other 36	N/A	N/A	N/A
4005	Tot Bas Lcl 36/69		N/A	N/A

2. Network Access Service Revenues

4010	End User 36	N/A	N/A	N/A
4011	Switched Access 36	N/A	N/A	N/A
4012	Special Access 36	N/A	N/A	N/A
4013	State Access 36	N/A	N/A	N/A
4014	Tot Netwk Acc 36/69		N/A	

3. Long Distance Message Service Revenues

4020	Wideband Msg&TWX 36	N/A	N/A	N/A
4021	$MOU 36	N/A	N/A	N/A
4022	LD PL-Broad 36	N/A	N/A	N/A
4023	Other LD Msg 36	N/A	N/A	N/A
4024	Tot LD Msg 36/69		N/A	

4. Miscellaneous Revenues

4030	Directory 36	N/A	N/A	N/A
4031	Billing & Coll 36	N/A	N/A	N/A
4032	All Other Misc 36	N/A	N/A	N/A
4033	Tot Misc 36/69			

5. Uncollectible Revenues

4040	Uncollectible 36/69			
4050	Tot Rev ls Unc36/69			

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Subject to Separations (b)	State (c)	Interstate (d)	Common Line Pay (e)	Common Line Inside Wire (f)	Common Line BFP (g)
	B. Certain Income Accounts						
	1. Other Operating Income and Expenses						
4060	FX Different 36				N/A	N/A	N/A
4061	Direct All Other 36				N/A	N/A	N/A
4062	All Other 36				N/A	N/A	N/A
4063	#TPIS 36				N/A	N/A	N/A
4064	Tot Oth OpInc 69	N/A	N/A				
4065	#Combined Inv 69	N/A	N/A				
4066	Tot Oth OpInc 36/69						
	2. Non-Operating Income and Expenses						
4070	AFUDC 36/69						
4071	#Long Term PUC 36				N/A	N/A	N/A
4072	Soc/Comm 36/69						
4073	#Corp Op Exp 36				N/A	N/A	N/A
4074		N/A	N/A	N/A	N/A	N/A	N/A
4075	#Combined Inv 69	N/A	N/A				
4076	Tot NonOp Inc 36/69						
	3. Interest and Related Items						
4080	Int&Rel Items 36				N/A	N/A	N/A
4081	#Cap Leases 36				N/A	N/A	N/A
4082		N/A	N/A	N/A	N/A	N/A	N/A
	4. Extraordinary Items						
4090	Extra Items 36/69						
	5. Income Effect of Jurisdictional Ratemaking Differences						
4100	Inc Effect 36			N/A	N/A	N/A	N/A
4110	Tot CIE 36/69						
4120	Tot Rev Ls IEF36/69				N/A	N/A	N/A

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TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Total Common Line (i)	Traffic Sensitive: Switching (j)	EqualAccess (k)	Transport (l)	Information (m)	Total Traffic Sen (n)	Special Access (o)
	B. Certain Income Accounts							
	1. Other Operating Income and Expenses							
4060	FX Different 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
4061	Direct All Other 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
4062	All Other 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
4063	#TPIS 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
4064	Tot Oth OpInc 69			N/A				
4065	#Combined Inv 69			N/A				
4066	Tot Oth OpInc 36/69			N/A				
	2. Non-Operating Income and Expenses							
4070	AFUDC 36/69							
4071	#Long Term PUC 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
4072	Soc/Comm 36/69							
4073	#Corp Op Exp 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
4074		N/A	N/A	N/A	N/A	N/A	N/A	N/A
4075	#Combined Inv 69							
4076	Tot NonOp Inc 36/69							
	3. Interest and Related Items							
4080	Int&Rel Items 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
4081	#Cap Leases 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
4082		N/A	N/A	N/A	N/A	N/A	N/A	N/A
	4. Extraordinary Items							
4090	Extra Items 36/69			N/A				
	5. Income Effect of Jurisdictional Ratemaking Differences							
4100	Inc Effect 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
4110	Tot CIE 36/69							
4120	Tot Rev LsIEF 36/69							

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Total Access (p)	Billing & Collection (q)	IX (r)
	B. Certain Income Accounts			
	1. Other Operating Income and Expenses			
4060	FX Different 36	N/A	N/A	N/A
4061	Direct All Other 36	N/A	N/A	N/A
4062	All Other 36	N/A	N/A	N/A
4063	#TPIS 36	N/A	N/A	N/A
4064	Tot Oth OpInc 69			
4065	#Combined Inv 69			
4066	Tot Oth OpInc 36/69			
	2. Non-Operating Income and Expenses			
4070	AFUDC 36/69			
4071	#Long Term PUC 36	N/A	N/A	N/A
4072	Soc/Comm 36/69			
4073	#Corp Op Exp 36	N/A	N/A	N/A
4074		N/A	N/A	N/A
4075	#Combined Inv 69			
4076	Tot NonOp Inc 36/69			
	3. Interest and Related Items			
4080	Int&Rel Items 36	N/A	N/A	N/A
4081	#Cap Leases 36	N/A	N/A	N/A
4082		N/A	N/A	N/A
	4. Extraordinary Items			
4090	Extra Items 36/69			
	5. Income Effect of Jurisdictional Ratemaking Differences			
4100	Inc Effect 36	N/A	N/A	N/A
4110	Tot CIE 36/69			
4120	Tot Rev LsIEF 36/69			

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Subject to Separations (b)	State (c)	Interstate (d)	Common Line Pay (e)	Common Line Inside Wire (f)	Common Line BFP (g)
	VI. Operating Expenses and Taxes						
	A. Plant Specific Operating Expenses						
	1. Network Support and General Support Expenses						
5000	Network Supp 36/69						
5001	#GSF 36				N/A	N/A	N/A
5002	#Comb Inv 69	N/A	N/A				
5010	General Supp 36/69						
5011	#GSF 36				N/A	N/A	N/A
5012	#GSF Inv 69	N/A	N/A				
5013	Tot Sup 36/69						
	2. Central Office Expenses						
5020	Direct PL 36				N/A	N/A	N/A
5021	Direct Message 36				N/A	N/A	N/A
5022	CO Exp 36				N/A	N/A	N/A
5023	#COE Inv 36				N/A	N/A	N/A
5024	CO Exp 69	N/A	N/A			N/A	
5025	#COE Inv 69	N/A	N/A			N/A	
5026	Tot CO Exp 36/69					N/A	
	3. IOT Expenses						
	a) Other IOT Expenses						
	Part 36 Detail						
5030	Oth Less Coinlss 36				N/A	N/A	N/A
5031	#LAF 36 %				N/A	N/A	N/A
5032	Coinless Pay 36				N/A	N/A	N/A
5033	#LEC MOU 36				N/A	N/A	N/A
	Part 69 Detail						
5040	Tot Oth IOT 69	N/A	N/A				
5041	#IOT Inv 69	N/A	N/A				
5042	Tot Oth IOT 36/69						

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Total Common Line (i)	Traffic Sensitive: Switching (j)	Traffic Sensitive: EqualAccess (k)	Traffic Sensitive: Transport (l)	Traffic Sensitive: Information (m)	Total Traffic Sen (n)	Special Access (o)
	VI. Operating Expenses and Taxes							
	A. Plant Specific Operating Expenses							
	1. Network Support and General Support Expenses							
5000	Network Supp 36/69			N/A				
5001	#GSF 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
5002	#Comb Inv 69			N/A				
5010	General Supp 36/69			N/A				
5011	#GSF 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
5012	#GSF Inv 69			N/A				
5013	Tot Sup 36/69			N/A				
	2. Central Office Expenses							
5020	Direct PL 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
5021	Direct Message 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
5022	CO Exp 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
5023	#COE Inv 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
5024	CO Exp 69			N/A				
5025	#COE Inv 69			N/A				
5026	Tot CO Exp 36/69			N/A				
	3. IOT Expenses							
	a) Other IOT Expenses							
	Part 36 Detail							
5030	Oth Less Coinlss 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
5031	#LAF 36 %	N/A	N/A	N/A	N/A	N/A	N/A	N/A
5032	Coinless Pay 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
5033	#LEC MOU 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	Part 69 Detail							
5040	Tot Oth IOT 69		N/A	N/A	N/A	N/A	N/A	
5041	#IOT Inv 69		N/A	N/A	N/A	N/A	N/A	
5042	Tot Oth IOT 36/69		N/A	N/A	N/A	N/A	N/A	

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Total Access (p)	Billing & Collection (q)	IX (r)

VI. Operating Expenses and Taxes

A. Plant Specific Operating Expenses

1. Network Support and General Support Expenses

5000	Network Supp 36/69			
5001	#GSF 36	N/A	N/A	N/A
5002	#Comb Inv 69			
5010	General Supp 36/69			
5011	#GSF 36	N/A	N/A	N/A
5012	#GSF Inv 69			
5013	Tot Sup 36/69			

2. Central Office Expenses

5020	Direct PL 36	N/A	N/A	N/A
5021	Direct Message 36	N/A	N/A	N/A
5022	CO Exp 36	N/A	N/A	N/A
5023	#COE Inv 36	N/A	N/A	N/A
5024	CO Exp 69		N/A	
5025	#COE Inv 69		N/A	
5026	Tot CO Exp 36/69		N/A	

3. IOT Expenses

a) Other IOT Expenses

Part 36 Detail

5030	Oth Less Coinlss 36	N/A	N/A	N/A
5031	#LAF 36 %	N/A	N/A	N/A
5032	Coinless Pay 36	N/A	N/A	N/A
5033	#LEC MOU 36	N/A	N/A	N/A

Part 69 Detail

5040	Tot Oth IOT 69		N/A	N/A
5041	#IOT Inv 69		N/A	N/A
5042	Tot Oth IOT 36/69		N/A	N/A

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Subject to Separations (b)	State (c)	Interstate (d)	Common Line Pay (e)	Common Line Inside Wire (f)	Common Line BFP (g)
	b) Customer Premises Equipment Expenses						
5050	New CPE 36			N/A	N/A	N/A	N/A
5060	Tot IOT Exp 36/69						
	4. C&WF Expenses						
5070	Direct PL 36				N/A	N/A	N/A
5071	Direct Message 36				N/A	N/A	N/A
5072	C&WF 36				N/A	N/A	N/A
5073	#C&WF Inv 36				N/A	N/A	N/A
5074	C&WF 69	N/A	N/A			N/A	
5075	#C&WF Inv 69	N/A	N/A			N/A	
5076	Tot C&WF Exp 36/69					N/A	
5080	Tot Plt Spec 36/69						
	B. Plant Non-Specific Operating Expenses						
	1. Other Property Plant and Equipment Expenses						
6000	Other PP&E 36/69						
6001	#TPIS 36				N/A	N/A	N/A
6002	#COE/IOT/C&WF 69	N/A	N/A				
	2. Network Operations and Access Expenses						
6010	Network Oper 36/69						
6011	#COE/IOT/C&WF 36/69						
6012	Access 36/69				N/A	N/A	N/A

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Total Common Line (i)	Traffic Sensitive: Switching (j)	Traffic Sensitive: EqualAccess (k)	Traffic Sensitive: Transport (l)	Traffic Sensitive: Information (m)	Total Traffic Sen (n)	Special Access (o)
	b) Customer Premises Equipment Expenses							
5050	New CPE 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
5060	Tot IOT Exp 36/69		N/A	N/A	N/A	N/A	N/A	
	4. C&WF Expenses							
5070	Direct PL 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
5071	Direct Message 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
5072	C&WF 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
5073	#C&WF Inv 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
5074	C&WF 69		N/A	N/A		N/A		
5075	#C&WF Inv 69		N/A	N/A		N/A		
5076	Tot C&WF Exp 36/69		N/A	N/A		N/A		
5080	Tot Plt Spec 36/69			N/A				
	B. Plant Non-Specific Operating Expenses							
	1. Other Property Plant and Equipment Expenses							
6000	Other PP&E 36/69			N/A				
6001	#TPIS 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
6002	#COE/IOT/C&WF 69			N/A				
	2. Network Operations and Access Expenses							
6010	Network Oper 36/69			N/A				
6011	#COE/IOT/C&WF 36/69			N/A				
6012	Access 36/69	N/A	N/A	N/A	N/A	N/A	N/A	N/A

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Total Access (p)	Billing & Collection (q)	IX (r)
	b) Customer Premises Equipment Expenses			
5050	New CPE 36	N/A	N/A	N/A
5060	Tot IOT Exp 36/69		N/A	N/A
	4. C&WF Expenses			
5070	Direct PL 36	N/A	N/A	N/A
5071	Direct Message 36	N/A	N/A	N/A
5072	C&WF 36	N/A	N/A	N/A
5073	#C&WF Inv 36	N/A	N/A	N/A
5074	C&WF 69		N/A	
5075	#C&WF Inv 69		N/A	
5076	Tot CW&F Exp 36/69		N/A	
5080	Tot Plt Spec 36/69			
	B. Plant Non-Specific Operating Expenses			
	1. Other Property Plant and Equipment Expenses			
6000	Other PP&E 36/69		N/A	
6001	#TPIS 36	N/A	N/A	N/A
6002	#COE/IOT/C&WF 69		N/A	
	2. Network Operations and Access Expenses			
6010	Network Oper 36/69		N/A	
6011	#COE/IOT/C&WF 36/69		N/A	
6012	Access 36/69	N/A	N/A	

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Subject to Separations (b)	State (c)	Interstate (d)	Common Line: Pay (e)	Common Line: Inside Wire (f)	Common Line: BFP (g)
	3. Depreciation and Amortization Expenses						
	a) Depreciation and Amortization Expenses of Telecommunications Plant in Service						
6020	GSF 36/69						
6021	#GSF 36/69						
6030	Switching 36/69					N/A	
6031	#Switching 36/69					N/A	
6040	Op Sys 36/69					N/A	
6041	#Op Sys 36/69					N/A	
6050	Transmission 36/69					N/A	
6051	#Transmission 36/69					N/A	
6060	IOT 36/69						
6061	#IOT 36/69						
6070	C&WF 36/69					N/A	
6071	#C&WF 36/69					N/A	
6080	PHFTU 36/69						
6081	#PHFTU 36/69						
6090	Tot Dep Plant 36/69						
	b) Amortization Expenses of Tangible Assets						
	(1) Amortization Expenses of Capital Leases						
6100	GSF 36/69						
6101	#GSF 36/69						
6110	Switching 36/69					N/A	
6111	#Switching 36/69					N/A	
6120	Op Sys 36/69					N/A	
6121	#Op Sys 36/69					N/A	
6130	Transmission 36/69					N/A	
6131	#Transmission 36/69					N/A	
6140	IOT 36/69						
6141	#IOT 36/69						
6150	C&WF 36/69					N/A	
6151	#C&WF 36/69					N/A	
6160	Tot Cap Lease 36/69						

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Total Common Line (i)	Traffic Sensitive: Switching (j)	Traffic Sensitive: EqualAccess (k)	Traffic Sensitive: Transport (l)	Traffic Sensitive: Information (m)	Total Traffic Sen (n)	Special Access (o)
	3. Depreciation and Amortization Expenses							
	a) Depreciation and Amortization Expenses of Telecommunications Plant in Service							
6020	GSF 36/69			N/A				
6021	#GSF 36/69			N/A				
6030	Switching 36/69			N/A				
6031	#Switching 36/69			N/A				
6040	Op Sys 36/69			N/A				
6041	#Op Sys 36/69			N/A				
6050	Transmission 36/69			N/A				
6051	#Transmission 36/69			N/A				
6060	IOT 36/69		N/A	N/A	N/A	N/A	N/A	
6061	#IOT 36/69		N/A	N/A	N/A	N/A	N/A	
6070	C&WF 36/69		N/A	N/A		N/A		
6071	#C&WF 36/69		N/A	N/A		N/A		
6080	PHFTU 36/69			N/A				
6081	#PHFTU 36/69			N/A				
6090	Tot Dep Plant 36/69			N/A				
	b) Amortization Expenses of Tangible Assets							
	(1) Amortization Expenses of Capital Leases							
6100	GSF 36/69			N/A				
6101	#GSF 36/69			N/A				
6110	Switching 36/69			N/A				
6111	#Switching 36/69			N/A				
6120	Op Sys 36/69			N/A				
6121	#Op Sys 36/69			N/A				
6130	Transmission 36/69			N/A				
6131	#Transmission 36/69			N/A				
6140	IOT 36/69		N/A	N/A	N/A	N/A	N/A	
6141	#IOT 36/69		N/A	N/A	N/A	N/A	N/A	
6150	C&WF 36/69		N/A	N/A		N/A		
6151	#C&WF 36/69		N/A	N/A		N/A		
6160	Tot Cap Lease 36/69			N/A				

COMPANY: xxxxxxxxxxxxxxxxxxxxxxxxxxxxxx
STUDY AREA: xxxxxxxxxxxxxxxxxxx
PERIOD: From mmm yyyy To mmm yyyy
COSA: xxxx

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Total Access (p)	Billing & Collection (q)	IX (r)
	3. Depreciation and Amortization Expenses			
	a) Depreciation and Amortization Expenses of Telecommunications Plant in Service			
6020	GSF 36/69			
6021	#GSF 36/69			
6030	Switching 36/69		N/A	
6031	#Switching 36/69		N/A	
6040	Op Sys 36/69		N/A	
6041	#Op Sys 36/69		N/A	
6050	Transmission 36/69		N/A	
6051	#Transmission 36/69		N/A	
6060	IOT 36/69		N/A	N/A
6061	#IOT 36/69		N/A	N/A
6070	C&WF 36/69		N/A	
6071	#C&WF 36/69		N/A	
6080	PHFTU 36/69			
6081	#PHFTU 36/69			
6090	Tot Dep Plant 36/69			
	b) Amortization Expenses of Tangible Assets			
	(1) Amortization Expenses of Capital Leases			
6100	GSF 36/69			
6101	#GSF 36/69			
6110	Switching 36/69		N/A	
6111	#Switching 36/69		N/A	
6120	Op Sys 36/69		N/A	
6121	#Op Sys 36/69		N/A	
6130	Transmission 36/69		N/A	
6131	#Transmission 36/69		N/A	
6140	IOT 36/69		N/A	N/A
6141	#IOT 36/69		N/A	N/A
6150	C&WF 36/69		N/A	
6151	#C&WF 36/69		N/A	
6160	Tot Cap Lease 36/69			

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Subject to Separations (b)	State (c)	Interstate (d)	Common Line Pay (e)	Common Line Inside Wire (f)	Common Line BFP (g)
	(2) Amortization Expenses of Leasehold Improvements						
6170	GSF 36/69						
6171	#GSF 36/69						
6180	Switching 36/69					N/A	
6181	#Switching 36/69					N/A	
6190	Op Sys 36/69					N/A	
6191	#Op Sys 36/69					N/A	
6200	Transmission 36/69					N/A	
6201	#Transmission 36/69					N/A	
6210	IOT 36/69						
6211	#IOT 36/69						
6220	C&WF 36/69					N/A	
6221	#C&WF 36/69					N/A	
6230	Tot Leas Imp 36/69						
6240	Tot Am Tang 36/69						
	(3) Other Depreciation and Amortization Expenses						
6250	Intangibles 36/69						
6251	#Intan Ass 36/69						
6252	Other 36/69						
6253	#Assd Inv 36/69						
6254	Tot Other 36/69						
6260	Tot Dep/Amort 36/69						
6270	Tot Pl NonSp 36/69						
	C. Customer Operations Expenses						
	1. Marketing Expenses						
6998	Marketing DA 36				N/A	N/A	N/A
6999	Marketing Alloc 36				N/A	N/A	N/A
7000	Tot Mkting 36/69						
7001	#Curr Bill Anal 36				N/A	N/A	N/A
7002	#Combined Inv 69	N/A	N/A				

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Total Common Line (i)	Traffic Sensitive: Switching (j)	EqualAccess (k)	Transport (l)	Information (m)	Total Traffic Sen (n)	Special Access (o)
	(2) Amortization Expenses of Leasehold Improvements							
6170	GSF 36/69			N/A				
6171	#GSF 36/69			N/A				
6180	Switching 36/69			N/A				
6181	#Switching 36/69			N/A				
6190	Op Sys 36/69			N/A				
6191	#Op Sys 36/69			N/A				
6200	Transmission 36/69			N/A				
6201	#Transmission 36/69			N/A				
6210	IOT 36/69		N/A	N/A	N/A	N/A	N/A	
6211	#IOT 36/69		N/A	N/A	N/A	N/A	N/A	
6220	C&WF 36/69		N/A	N/A		N/A		
6221	#C&WF 36/69		N/A	N/A		N/A		
6230	Tot Leas Imp 36/69			N/A				
6240	Tot Am Tang 36/69			N/A				
	(3) Other Depreciation and Amortization Expenses							
6250	Intangibles 36/69			N/A				
6251	#Intan Ass 36/69			N/A				
6252	Other 36/69			N/A				
6253	#Assd Inv 36/69			N/A				
6254	Tot Other 36/69			N/A				
6260	Tot Dep/Amort 36/69			N/A				
6270	Tot Pl NonSp 36/69			N/A				
	C. Customer Operations Expenses							
	1. Marketing Expenses							
6998	Marketing DA 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
6999	Marketing Alloc 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7000	Marketing 36/69			N/A				
7001	#Curr Bill Anal 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7002	#Combined Inv 69			N/A				

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Total Access (p)	Billing & Collection (q)	IX (r)
	(2) Amortization Expenses of Leasehold Improvements			
6170	GSF 36/69			
6171	#GSF 36/69			
6180	Switching 36/69		N/A	
6181	#Switching 36/69		N/A	
6190	Op Sys 36/69		N/A	
6191	#Op Sys 36/69		N/A	
6200	Transmission 36/69		N/A	
6201	#Transmission 36/69		N/A	
6210	IOT 36/69		N/A	N/A
6211	#IOT 36/69		N/A	N/A
6220	C&WF 36/69		N/A	
6221	#C&WF 36/69		N/A	
6230	Tot Leas Imp 36/69			
6240	Tot Am Tang 36/69			
	(3) Other Depreciation and Amortization Expenses			
6250	Intangibles 36/69			
6251	#Intan Ass 36/69			
6252	Other 36/69			
6253	#Assd Inv 36/69			
6254	Tot Other 36/69			
6260	Tot Dep/Amort 36/69			
6270	Tot Pl NonSp 36/69			
	C. Customer Operations Expenses			
	1. Marketing Expenses			
6998	Marketing DA 36	N/A	N/A	N/A
6999	Marketing Alloc 36	N/A	N/A	N/A
7000	Marketing 36/69		N/A	
7001	#Curr Bill Anal 36	N/A	N/A	N/A
7002	#Combined Inv 69		N/A	

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Subject to Separations (b)	State (c)	Interstate (d)	Common Line Pay (e)	Common Line Inside Wire (f)	Common Line BFP (g)
	2. Services Expenses						
	a) Telephone Operator Services Expenses						
	Part 36 Detail						
7010	Call Completion 36				N/A	N/A	N/A
7011	#WSWS 36				N/A	N/A	N/A
7020	Intercept 36				N/A	N/A	N/A
7021	#WSWS 36				N/A	N/A	N/A
7030	DA 36				N/A	N/A	N/A
7031	#WSWS 36				N/A	N/A	N/A
7040	Other 36				N/A	N/A	N/A
7041	#WSWS 36				N/A	N/A	N/A
	Part 69 Detail						
7050	Tel Op Direct 69	N/A	N/A		N/A	N/A	N/A
7051	Tel Op Alloc 69	N/A	N/A		N/A	N/A	N/A
7052	#WSWS 69	N/A	N/A		N/A	N/A	N/A
7060	Tot Tel Op 36/69				N/A	N/A	N/A
	b) Published Directory Listing Expenses						
7070	Classified Dir 36			N/A	N/A	N/A	N/A
7071	TWX Directory 36				N/A	N/A	N/A
7072	#TWX MOU 36				N/A	N/A	N/A
7073	Alpha/Traffic 36				N/A	N/A	N/A
7074	#Sub Line MOU 36				N/A	N/A	N/A
7075	For Directories 36				N/A	N/A	N/A
7076	Tot Pub Dir 36/69				N/A	N/A	N/A

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Total Common Line (i)	Traffic Sensitive: Switching (j)	Equal Access (k)	Transport (l)	Information (m)	Total Traffic Sen (n)	Special Access (o)
	2. Services Expenses							
	a) Telephone Operator Services Expenses							
	Part 36 Detail							
7010	Call Completion 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7011	#WSWS 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7020	Intercept 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7021	#WSWS 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7030	DA 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7031	#WSWS 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7040	Other 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7041	#WSWS 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	Part 69 Detail							
7050	Tel Op Direct 69	N/A		N/A	N/A			N/A
7051	Tel Op Alloc 69	N/A		N/A	N/A			N/A
7052	#WSWS 69	N/A		N/A	N/A			N/A
7060	Tot Tel Op 36/69	N/A		N/A	N/A			N/A
	b) Published Directory Listing Expenses							
7070	Classified Dir 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7071	TWX Directory 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7072	#TWX MOU 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7073	Alpha/Traffic 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7074	#Sub Line MOU 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7075	For Directories 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7076	Tot Pub Dir 36/69	N/A	N/A	N/A	N/A			N/A

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PERIOD: From mmm yyyy To mmm yyyy
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TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Total Access (p)	Billing & Collection (q)	IX (r)
	2. Services Expenses			
	a) Telephone Operator Services Expenses			
	Part 36 Detail			
7010	Call Completion 36	N/A	N/A	N/A
7011	#WSWS 36	N/A	N/A	N/A
7020	Intercept 36	N/A	N/A	N/A
7021	#WSWS 36	N/A	N/A	N/A
7030	DA 36	N/A	N/A	N/A
7031	#WSWS 36	N/A	N/A	N/A
7040	Other 36	N/A	N/A	N/A
7041	#WSWS 36	N/A	N/A	N/A
	Part 69 Detail			
7050	Tel Op Direct 69		N/A	
7051	Tel Op Alloc 69		N/A	
7052	#WSWS 69		N/A	
7060	Tot Tel Op 36/69		N/A	
	b) Published Directory Listing Expenses			
7070	Classified Dir 36	N/A	N/A	N/A
7071	TWX Directory 36	N/A	N/A	N/A
7072	#TWX MOU 36	N/A	N/A	N/A
7073	Alpha/Traffic 36	N/A	N/A	N/A
7074	#Sub Line MOU 36	N/A	N/A	N/A
7075	For Directories 36	N/A	N/A	N/A
7076	Tot Pub Dir 36/69		N/A	N/A

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Subject to Separations (b)	State (c)	Interstate (d)	Common Line Pay (e)	Common Line Inside Wire (f)	Common Line BFP (g)

c) All Other Services Expenses

(1) Category 1 - Local Business Office Expenses

Part 36 Detail

(a) End User Service Order Processing Expenses

7080	#Total WAC 36		N/A	N/A	N/A	N/A	N/A
7081	#Lcl Svc Or WAC 36			N/A	N/A	N/A	N/A
7082	#Presub WAC 36		N/A		N/A	N/A	N/A
7083	#Dir Ad WAC 36			N/A	N/A	N/A	N/A
7084	#State PL WAC 36			N/A	N/A	N/A	N/A
7085	#IS PL WAC 36		N/A		N/A	N/A	N/A
7086	#State Msg WAC 36			N/A	N/A	N/A	N/A
7087	#IS Msg WAC 36		N/A		N/A	N/A	N/A
7088	#TWX WAC 36		N/A	N/A	N/A	N/A	N/A
7089	Lcl Svc Or Proc 36			N/A	N/A	N/A	N/A
7090	Presub Svc Or 36		N/A		N/A	N/A	N/A
7091	Dir Ad Svc Or 36			N/A	N/A	N/A	N/A
7092	PL & Special 36				N/A	N/A	N/A
7093	Message Toll 36				N/A	N/A	N/A
7094	TWX 36				N/A	N/A	N/A
7095	#Bill TWX Rev 36				N/A	N/A	N/A
7096	Tot Svc Or Proc 36				N/A	N/A	N/A

(b) End User Payment and Collection Expenses

7100	#Tot Bill Rev 36		N/A	N/A	N/A	N/A	N/A
7101	#State PL Bl Rev 36			N/A	N/A	N/A	N/A
7102	#IS PL Bill Rev 36		N/A		N/A	N/A	N/A
7103	#St Msg Bill Rev 36			N/A	N/A	N/A	N/A
7104	#IS Msg Bill Rev 36		N/A		N/A	N/A	N/A
7105	#Local Bill Rev 36			N/A	N/A	N/A	N/A
7106	#TWX Bill Rev 36		N/A	N/A	N/A	N/A	N/A
7107	PL & Special 36				N/A	N/A	N/A
7108	Msg Toll 36				N/A	N/A	N/A
7109	Local 36			N/A	N/A	N/A	N/A
7110	TWX 36				N/A	N/A	N/A
7111	#Bill TWX Rev 36				N/A	N/A	N/A
7112	Tot EU Pay & Col 36				N/A	N/A	N/A

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TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Total Common Line (i)	Traffic Sensitive: Switching (j)	Equal Access (k)	Transport (l)	Information (m)	Total Traffic Sen (n)	Special Access (o)

c) All Other Services Expenses

(1) Category 1 - Local Business Office Expenses

Part 36 Detail

(a) End User Service Order Processing Expenses

7080	#Total WAC 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7081	#Lcl Svc Or WAC 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7082	#Presub WAC 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7083	#Dir Ad WAC 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7084	#State PL WAC 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7085	#IS PL WAC 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7086	#State Msg WAC 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7087	#IS Msg WAC 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7088	#TWX WAC 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7089	Lcl Svc Or Proc 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7090	Presub Svc Or 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7091	Dir Ad Svc Or 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7092	PL & Special 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7093	Message Toll 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7094	TWX 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7095	#Bill TWX Rev 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7096	Tot Svc Or Proc 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A

(b) End User Payment and Collection Expenses

7100	#Tot Bill Rev 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7101	#State PL Bl Rev 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7102	#IS PL Bill Rev 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7103	#St Msg Bill Rev 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7104	#IS Msg Bill Rev 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7105	#Local Bill Rev 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7106	#TWX Bill Rev 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7107	PL & Special 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7108	Msg Toll 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7109	Local 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7110	TWX 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7111	#Bill TWX Rev 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7112	Tot EU Pay & Col 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Total Access (p)	Billing & Collection (q)	IX (r)

c) All Other Services Expenses

(1) Category 1 - Local Business Office Expenses

Part 36 Detail

(a) End User Service Order Processing Expenses

7080	#Total WAC 36	N/A	N/A	N/A
7081	#Lcl Svc Or WAC 36	N/A	N/A	N/A
7082	#Presub WAC 36	N/A	N/A	N/A
7083	#Dir Ad WAC 36	N/A	N/A	N/A
7084	#State PL WAC 36	N/A	N/A	N/A
7085	#IS PL WAC 36	N/A	N/A	N/A
7086	#State Msg WAC 36	N/A	N/A	N/A
7087	#IS Msg WAC 36	N/A	N/A	N/A
7088	#TWX WAC 36	N/A	N/A	N/A
7089	Lcl Svc Or Proc 36	N/A	N/A	N/A
7090	Presub Svc Or 36	N/A	N/A	N/A
7091	Dir Ad Svc Or 36	N/A	N/A	N/A
7092	PL & Special 36	N/A	N/A	N/A
7093	Message Toll 36	N/A	N/A	N/A
7094	TWX 36	N/A	N/A	N/A
7095	#Bill TWX Rev 36	N/A	N/A	N/A
7096	Tot Svc Or Proc 36	N/A	N/A	N/A

(b) End User Payment and Collection Expenses

7100	#Tot Bill Rev 36	N/A	N/A	N/A
7101	#State PL Bl Rev 36	N/A	N/A	N/A
7102	#IS PL Bill Rev 36	N/A	N/A	N/A
7103	#St Msg Bill Rev 36	N/A	N/A	N/A
7104	#IS Msg Bill Rev 36	N/A	N/A	N/A
7105	#Local Bill Rev 36	N/A	N/A	N/A
7106	#TWX Bill Rev 36	N/A	N/A	N/A
7107	PL & Special 36	N/A	N/A	N/A
7108	Msg Toll 36	N/A	N/A	N/A
7109	Local 36	N/A	N/A	N/A
7110	TWX 36	N/A	N/A	N/A
7111	#Bill TWX Rev 36	N/A	N/A	N/A
7112	Tot EU Pay & Col 36	N/A	N/A	N/A

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TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Subject to Separations (b)	State (c)	Interstate (d)	Common Line Pay (e)	Common Line Inside Wire (f)	Common Line BFP (g)
	(c) End User Billing Inquiry Expenses						
7120	#Tot WAC 36		N/A	N/A	N/A	N/A	N/A
7121	#State PL WAC 36			N/A	N/A	N/A	N/A
7122	#IS PL WAC 36		N/A		N/A	N/A	N/A
7123	#State Msg WAC 36			N/A	N/A	N/A	N/A
7124	#IS Msg WAC 36		N/A		N/A	N/A	N/A
7125	#TWX WAC 36		N/A	N/A	N/A	N/A	N/A
7126	#Other WAC 36			N/A	N/A	N/A	N/A
7127	PL & Special 36				N/A	N/A	N/A
7128	Msg Toll 36				N/A	N/A	N/A
7129	TWX 36				N/A	N/A	N/A
7130	#TWX Bill Rev 36				N/A	N/A	N/A
7131	Other 36			N/A	N/A	N/A	N/A
7132	Tot Bill Inq 36				N/A	N/A	N/A
	(d) Interexchange Carrier Service Order Processing Expenses						
7140	#Tot WAC 36		N/A	N/A	N/A	N/A	N/A
7141	#State PL WAC 36			N/A	N/A	N/A	N/A
7142	#IS PL WAC 36		N/A		N/A	N/A	N/A
7143	#St Switch WAC 36			N/A	N/A	N/A	N/A
7144	#IS Switch WAC 36		N/A		N/A	N/A	N/A
7145	#State B&C WAC 36			N/A	N/A	N/A	N/A
7146	#IS B&C WAC 36		N/A		N/A	N/A	N/A
7147	PL & Special 36				N/A	N/A	N/A
7148	Switched & Msg 36				N/A	N/A	N/A
7149	Billing & Coll 36				N/A	N/A	N/A
7150	Tot IC Svc Ord 36				N/A	N/A	N/A

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Total Common Line (i)	Traffic Sensitive: Switching (j)	Equal Access (k)	Transport (l)	Information (m)	Total Traffic Sen (n)	Special Access (o)
	(c) End User Billing Inquiry Expenses							
7120	#Tot WAC 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7121	#State PL WAC 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7122	#IS PL WAC 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7123	#State Msg WAC 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7124	#IS Msg WAC 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7125	#TWX WAC 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7126	#Other WAC 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7127	PL & Special 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7128	Msg Toll 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7129	TWX 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7130	#TWX Bill Rev 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7131	Other 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7132	Tot Bill Inq 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	(d) Interexchange Carrier Service Order Processing Expenses							
7140	#Tot WAC 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7141	#State PL WAC 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7142	#IS PL WAC 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7143	#St Switch WAC 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7144	#IS Switch WAC 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7145	#State B&C WAC 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7146	#IS B&C WAC 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7147	PL & Special 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7148	Switched & Msg 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7149	Billing & Coll 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7150	Tot IC Svc Ord 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Total Access (p)	Billing & Collection (q)	IX (r)
	(c) End User Billing Inquiry Expenses			
7120	#Tot WAC 36	N/A	N/A	N/A
7121	#State PL WAC 36	N/A	N/A	N/A
7122	#IS PL WAC 36	N/A	N/A	N/A
7123	#State Msg WAC 36	N/A	N/A	N/A
7124	#IS Msg WAC 36	N/A	N/A	N/A
7125	#TWX WAC 36	N/A	N/A	N/A
7126	#Other WAC 36	N/A	N/A	N/A
7127	PL & Special 36	N/A	N/A	N/A
7128	Msg Toll 36	N/A	N/A	N/A
7129	TWX 36	N/A	N/A	N/A
7130	#TWX Bill Rev 36	N/A	N/A	N/A
7131	Other 36	N/A	N/A	N/A
7132	Tot Bill Inq 36	N/A	N/A	N/A
	(d) Interexchange Carrier Service Order Processing Expenses			
7140	#Tot WAC 36	N/A	N/A	N/A
7141	#State PL WAC 36	N/A	N/A	N/A
7142	#IS PL WAC 36	N/A	N/A	N/A
7143	#St Switch WAC 36	N/A	N/A	N/A
7144	#IS Switch WAC 36	N/A	N/A	N/A
7145	#State B&C WAC 36	N/A	N/A	N/A
7146	#IS B&C WAC 36	N/A	N/A	N/A
7147	PL & Special 36	N/A	N/A	N/A
7148	Switched & Msg 36	N/A	N/A	N/A
7149	Billing & Coll 36	N/A	N/A	N/A
7150	Tot IC Svc Ord 36	N/A	N/A	N/A

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Subject to Separations (b)	State (c)	Interstate (d)	Common Line: Pay (e)	Common Line: Inside Wire (f)	Common Line: BFP (g)
	(e) Interexchange Carrier Payment and Collection Expenses						
7160	#Tot Bill Rev 36		N/A	N/A	N/A	N/A	N/A
7161	#State PL Rev 36			N/A	N/A	N/A	N/A
7162	#IS PL Rev 36		N/A		N/A	N/A	N/A
7163	#St Switched Rev 36			N/A	N/A	N/A	N/A
7164	#IS Switched Rev 36		N/A		N/A	N/A	N/A
7165	#State B&C Rev 36			N/A	N/A	N/A	N/A
7166	#IS B&C Rev 36		N/A		N/A	N/A	N/A
7167	PL & Special 36				N/A	N/A	N/A
7168	Switched & Msg 36				N/A	N/A	N/A
7169	Billing & Coll 36				N/A	N/A	N/A
7170	Tot IC Pay & Col 36				N/A	N/A	N/A
	(f) Interexchange Carrier Billing Inquiry Expenses						
7180	#Tot WAC 36		N/A	N/A	N/A	N/A	N/A
7181	#State PL WAC 36			N/A	N/A	N/A	N/A
7182	#IS PL WAC 36		N/A		N/A	N/A	N/A
7183	#St Switch WAC 36			N/A	N/A	N/A	N/A
7184	#IS Switch WAC 36		N/A		N/A	N/A	N/A
7185	#State B&C WAC 36			N/A	N/A	N/A	N/A
7186	#IS B&C WAC 36		N/A		N/A	N/A	N/A
7187	PL & Special 36				N/A	N/A	N/A
7188	Switched & Msg 36				N/A	N/A	N/A
7189	Billing & Coll 36				N/A	N/A	N/A
7190	Tot IC Bill Inq 36				N/A	N/A	N/A
	(g) Coin Collection and Administration Expenses						
7200	Coin Coll & Adm 36				N/A	N/A	N/A
7201	#Rev Deposited 36				N/A	N/A	N/A

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Total Common Line (i)	Traffic Sensitive: Switching (j)	EqualAccess (k)	Transport (l)	Information (m)	Total Traffic Sen (n)	Special Access (o)
	(e) Interexchange Carrier Payment and Collection Expenses							
7160	#Tot Bill Rev 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7161	#State PL Rev 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7162	#IS PL Rev 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7163	#St Switched Rev 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7164	#IS Switched Rev 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7165	#State B&C Rev 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7166	#IS B&C Rev 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7167	PL & Special 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7168	Switched & Msg 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7169	Billing & Coll 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7170	Tot IC Pay & Col 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	(f) Interexchange Carrier Billing Inquiry Expenses							
7180	#Tot WAC 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7181	#State PL WAC 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7182	#IS PL WAC 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7183	#St Switch WAC 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7184	#IS Switch WAC 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7185	#State B&C WAC 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7186	#IS B&C WAC 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7187	PL & Special 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7188	Switched & Msg 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7189	Billing & Coll 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7190	Tot IC Bill Inq 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	(g) Coin Collection and Administration Expenses							
7200	Coin Coll & Adm 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7201	#Rev Deposited 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Total Access (p)	Billing & Collection (q)	IX (r)
	(e) Interexchange Carrier Payment and Collection Expenses			
7160	#Tot Bill Rev 36	N/A	N/A	N/A
7161	#State PL Rev 36	N/A	N/A	N/A
7162	#IS PL Rev 36	N/A	N/A	N/A
7163	#St Switched Rev 36	N/A	N/A	N/A
7164	#IS Switched Rev 36	N/A	N/A	N/A
7165	#State B&C Rev 36	N/A	N/A	N/A
7166	#IS B&C Rev 36	N/A	N/A	N/A
7167	PL & Special 36	N/A	N/A	N/A
7168	Switched & Msg 36	N/A	N/A	N/A
7169	Billing & Coll 36	N/A	N/A	N/A
7170	Tot IC Pay & Col 36	N/A	N/A	N/A
	(f) Interexchange Carrier Billing Inquiry Expenses			
7180	#Tot WAC 36	N/A	N/A	N/A
7181	#State PL WAC 36	N/A	N/A	N/A
7182	#IS PL WAC 36	N/A	N/A	N/A
7183	#St Switch WAC 36	N/A	N/A	N/A
7184	#IS Switch WAC 36	N/A	N/A	N/A
7185	#State B&C WAC 36	N/A	N/A	N/A
7186	#IS B&C WAC 36	N/A	N/A	N/A
7187	PL & Special 36	N/A	N/A	N/A
7188	Switched & Msg 36	N/A	N/A	N/A
7189	Billing & Coll 36	N/A	N/A	N/A
7190	Tot IC Bill Inq 36	N/A	N/A	N/A
	(g) Coin Collection and Administration Expenses			
7200	Coin Coll & Adm 36	N/A	N/A	N/A
7201	#Rev Deposited 36	N/A	N/A	N/A

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Subject to Separations (b)	State (c)	Interstate (d)	Common Line Pay (e)	Common Line Inside Wire (f)	Common Line BFP (g)
	Part 69 Detail						
7202	EU Att to Co PL 69	N/A	N/A		N/A	N/A	N/A
7203	EU Att to Co Msg 69	N/A	N/A		N/A	N/A	N/A
7204	EU Att to IC PL 69	N/A	N/A		N/A	N/A	N/A
7205	EU Att to IC Msg 69	N/A	N/A		N/A	N/A	N/A
7206	EU SLC Bills 69	N/A	N/A		N/A	N/A	
7207	EU Presub 69	N/A	N/A				
7208	#Combined Inv 69	N/A	N/A				
7209	EU TWX 69	N/A	N/A		N/A	N/A	N/A
7210	IC Att to PL 69	N/A	N/A		N/A	N/A	N/A
7211	IC Switch & Msg 69	N/A	N/A				
7212	#Combined Inv 69	N/A	N/A				
7213	IC B&C 69	N/A	N/A		N/A	N/A	N/A
7214	Coin Coll & Adm 69	N/A	N/A			N/A	N/A
7220	Tot Cat 1 36/69						

(2) Category 2 - Customer Services Expenses (Revenue Accounting)

Part 36 Detail

(a) Message Processing Expenses

7230	#Tot Msgs 36		N/A	N/A	N/A	N/A	N/A
7231	#Toll Msgs 36		N/A	N/A	N/A	N/A	N/A
7232	#Local Msgs 36			N/A	N/A	N/A	N/A
7233	Toll Ticket Proc 36				N/A	N/A	N/A
7234	#Toll Msgs 36				N/A	N/A	N/A
7235	Local Msg Proc 36			N/A	N/A	N/A	N/A
7236	Tot Msg Proc 36				N/A	N/A	N/A

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Total Common Line (i)	Traffic Sensitive Switching (j)	Traffic Sensitive EqualAccess (k)	Traffic Sensitive Transport (l)	Traffic Sensitive Information (m)	Total Traffic Sen (n)	Special Access (o)
	Part 69 Detail							
7202	EU Att to Co PL 69	N/A	N/A	N/A	N/A	N/A	N/A	
7203	EU Att to Co Msg 69	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7204	EU Att to IC PL 69	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7205	EU Att to IC Msg 69	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7206	EU SLC Bills 69		N/A	N/A	N/A	N/A	N/A	N/A
7207	EU Presub 69			N/A		N/A		N/A
7208	#Combined Inv 69			N/A		N/A		N/A
7209	EU TWX 69	N/A	N/A	N/A	N/A	N/A	N/A	
7210	IC Att to PL 69	N/A	N/A	N/A	N/A	N/A	N/A	
7211	IC Switch & Msg 69			N/A		N/A		N/A
7212	#Combined Inv 69			N/A		N/A		N/A
7213	IC B&C 69	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7214	Coin Coll & Adm 69		N/A	N/A	N/A	N/A	N/A	N/A
7220	Tot Cat 1 36/69			N/A		N/A		

(2) Category 2 - Customer Services Expenses (Revenue Accounting)

Part 36 Detail

(a) Message Processing Expenses

7230	#Tot Msgs 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7231	#Toll Msgs 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7232	#Local Msgs 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7233	Toll Ticket Proc 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7234	#Toll Msgs 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7235	Local Msg Proc 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7236	Tot Msg Proc 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Total Access (p)	Billing & Collection (q)	IX (r)
	Part 69 Detail			
7202	EU Att to Co PL 69		N/A	N/A
7203	EU Att to Co Msg 69	N/A	N/A	
7204	EU Att to IC PL 69	N/A		N/A
7205	EU Att to IC Msg 69	N/A		N/A
7206	EU SLC Bills 69		N/A	N/A
7207	EU Presub 69		N/A	N/A
7208	#Combined Inv 69		N/A	N/A
7209	EU TWX 69		N/A	N/A
7210	IC Att to PL 69		N/A	N/A
7211	IC Switch & Msg 69		N/A	N/A
7212	#Combined Inv 69		N/A	N/A
7213	IC B&C 69	N/A		N/A
7214	Coin Coll & Adm 69		N/A	N/A
7220	Tot Cat 1 36/69			

(2) Category 2 - Customer Services Expenses (Revenue Accounting)

Part 36 Detail

(a) Message Processing Expenses

7230	#Tot Msgs 36	N/A	N/A	N/A
7231	#Toll Msgs 36	N/A	N/A	N/A
7232	#Local Msgs 36	N/A	N/A	N/A
7233	Toll Ticket Proc 36	N/A	N/A	N/A
7234	#Toll Msgs 36	N/A	N/A	N/A
7235	Local Msg Proc 36	N/A	N/A	N/A
7236	Tot Msg Proc 36	N/A	N/A	N/A

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TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Subject to Separations (b)	State (c)	Interstate (d)	Common Line Pay (e)	Common Line Inside Wire (f)	Common Line BFP (g)
	(b) Other Billing and Collecting Expenses						
7240	#Tot Curr Users 36		N/A	N/A	N/A	N/A	N/A
7241	#Msg Toll Users 36		N/A	N/A	N/A	N/A	N/A
7242	#PL Users 36		N/A	N/A	N/A	N/A	N/A
7243	#TWX Users 36		N/A	N/A	N/A	N/A	N/A
7244	#Ex & Semi Users 36		N/A	N/A	N/A	N/A	N/A
7245		N/A	N/A	N/A	N/A	N/A	N/A
7246		N/A	N/A	N/A	N/A	N/A	N/A
7247	#Dir Ad Users 36		N/A	N/A	N/A	N/A	N/A
7248		N/A	N/A	N/A	N/A	N/A	N/A
7250		N/A	N/A	N/A	N/A	N/A	N/A
7251	MTS Exp 36				N/A	N/A	N/A
7252	#MTS Msg 36				N/A	N/A	N/A
7253	TWX Exp 36				N/A	N/A	N/A
7254	#TWX Con 36				N/A	N/A	N/A
7255	Ex Semi & DA Exp 36			N/A	N/A	N/A	N/A
7256	PL Exp 36				N/A	N/A	N/A
7257	#PL Accounts 36				N/A	N/A	N/A
7258	EU CL A&Bill Exp 36				N/A	N/A	N/A
7259	Total OB&C 36				N/A	N/A	N/A
7260		N/A	N/A	N/A	N/A	N/A	N/A
	(c) Carrier Access Charge Billing and Collecting Expenses						
7270	Carrier Access 36				N/A	N/A	N/A
	Part 69 Detail						
7280	SLC 69	N/A	N/A		N/A	N/A	
7281	Carrier Access 69	N/A	N/A		N/A	N/A	N/A
7282	#COE/IOT/C&WF 69	N/A	N/A		N/A	N/A	N/A
7283	All Other Cat 2 69	N/A	N/A		N/A	N/A	N/A
7290	Tot Cat 2 36/69				N/A	N/A	

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Total Common Line (i)	Traffic Sensitive: Switching (j)	Traffic Sensitive: EqualAccess (k)	Traffic Sensitive: Transport (l)	Traffic Sensitive: Information (m)	Total Traffic Sen (n)	Special Access (o)
	(b) Other Billing and Collecting Expenses							
7240	#Tot Curr Users 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7241	#Msg Toll Users 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7242	#PL Users 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7243	#TWX Users 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7244	#EX & Semi Users 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7245		N/A	N/A	N/A	N/A	N/A	N/A	N/A
7246		N/A	N/A	N/A	N/A	N/A	N/A	N/A
7247	#Dir Ad Users 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7248		N/A	N/A	N/A	N/A	N/A	N/A	N/A
7250		N/A	N/A	N/A	N/A	N/A	N/A	N/A
7251	MTS Exp 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7252	#MTS Msg 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7253	TWX Exp 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7254	#TWX Con 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7255	EX Semi & DA Exp 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7256	PL Exp 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7257	#PL Accounts 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7258	EU CL A&Bill Exp 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7259	Total OB&C 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7260		N/A	N/A	N/A	N/A	N/A	N/A	N/A
	(c) Carrier Access Charge Billing and Collecting Expenses							
7270	Carrier Access 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	Part 69 Detail							
7280	SLC 69		N/A	N/A	N/A	N/A	N/A	N/A
7281	Carrier Access 69	N/A		N/A				
7282	#COE/IOT/C&WF 69	N/A		N/A				
7283	All Other Cat 2 69	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7290	Tot Cat 2 36/69			N/A				

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Total Access (p)	Billing & Collection (q)	IX (r)
	(b) Other Billing and Collecting Expenses			
7240	#Tot Curr Users 36	N/A	N/A	N/A
7241	#MSG Toll Users 36	N/A	N/A	N/A
7242	#PL Users 36	N/A	N/A	N/A
7243	#TWX Users 36	N/A	N/A	N/A
7244	#Ex & Semi Users 36	N/A	N/A	N/A
7245		N/A	N/A	N/A
7246		N/A	N/A	N/A
7247	#Dir Ad Users 36	N/A	N/A	N/A
7248		N/A	N/A	N/A
7250		N/A	N/A	N/A
7251	MTS Exp 36	N/A	N/A	N/A
7252	#MTS Msg 36	N/A	N/A	N/A
7253	TWX Exp 36	N/A	N/A	N/A
7254	#TWX Con 36	N/A	N/A	N/A
7255	Ex Semi & DA Exp 36	N/A	N/A	N/A
7256	PL Exp 36	N/A	N/A	N/A
7257	#PL Accounts 36	N/A	N/A	N/A
7258	EU CL A&Bill Exp 36	N/A	N/A	N/A
7259	Total OB&C 36	N/A	N/A	N/A
7260		N/A	N/A	N/A
	(c) Carrier Access Charge Billing and Collecting Expenses			
7270	Carrier Access 36	N/A	N/A	N/A
	Part 69 Detail			
7280	SLC 69		N/A	N/A
7281	Carrier Access 69		N/A	N/A
7282	#COE/IOT/C&WF 69			
7283	All Other Cat 2 69	N/A		N/A
7290	Tot Cat 2 36/69			N/A

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Subject to Separations (b)	State (c)	Interstate (d)	Common Line Pay (e)	Common Line Inside Wire (f)	Common Line BFP (g)
	(3) Category 3 - All Other Customer Services Expenses						
7300	Oth Cust Svc 36/69						
7301	#Tot Cat 1 & 2 36				N/A	N/A	N/A
7302	#Combined Exp 69	N/A	N/A				
7310	Tot Oth C Svc 36/69						
7320	Tot Cust Op 36/69						
	D. Corporate Operations Expenses						
7330	EAS Settlements 36			N/A	N/A	N/A	N/A
7331	All Other 36/69						
7332	#Big 3 Exp 36				N/A	N/A	N/A
7333	#Big 3 Exp 69	N/A	N/A				
7334	Tot Corp Oper 36/69						
	E. FCC Expense Adjustment						
7350	FCC Expense Adj 65	N/A	N/A				
7351	Tot Oper Exp 36/69						
	F. Operating Taxes						
	1. State and Local Taxes						
8000	St & Lcl Inc 36/69				N/A	N/A	N/A
8001	#Appr Tax Inc 36/69				N/A	N/A	N/A
8002	Direct Oth St&Lcl36				N/A	N/A	N/A
8003	All Oth St & Lcl 36				N/A	N/A	N/A
8004	#TPIS 36				N/A	N/A	N/A
8005	Tot Oth St & Lcl 69	N/A	N/A		N/A	N/A	N/A
8006	#Combined Inv 69	N/A	N/A		N/A	N/A	N/A
8007	Tot St&Lcl Tax36/69				N/A	N/A	N/A

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TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Total Common Line (i)	Traffic Sensitive: Switching (j)	Traffic Sensitive: EqualAccess (k)	Traffic Sensitive: Transport (l)	Traffic Sensitive: Information (m)	Total Traffic Sen (n)	Special Access (o)
	(3) Category 3 - All Other Customer Services Expenses							
7300	Oth Cust Svc 36/69			N/A				
7301	#Tot Cat 1 & 2 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7302	#Combined Exp 69			N/A				
7310	Tot Oth C Svc 36/69			N/A				
7320	Tot Cust Op 36/69			N/A				
	D. Corporate Operations Expenses							
7330	EAS Settlements 36			N/A				
7331	All Other 36/69			N/A				
7332	#Big 3 Exp 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7333	#Big 3 Exp 69			N/A				
7334	Tot Corp Oper 36/69			N/A				
	E. FCC Expense Adjustment							
7350	FCC Expense Adj 65			N/A				
7351	Tot Oper Exp 36/69							
	F. Operating Taxes							
	1. State and Local Taxes							
8000	St & Lcl Inc 36/69							
8001	#Appr Tax Inc 36/69							
8002	Direct Oth St&Lcl36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
8003	All Oth St & Lcl 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
8004	#TPIS 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
8005	Tot Oth St & Lcl 69							
8006	#Combined Inv 69							
8007	Tot St&Lcl Tax36/69							

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TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Total Access (p)	Billing & Collection (q)	IX (r)
	(3) Category 3 - All Other Customer Services Expenses			
7300	Oth Cust Svc 36/69			
7301	#Tot Cat 1 & 2 36	N/A	N/A	N/A
7302	#Combined Exp 69			
7310	Tot Oth C Svc 36/69			
7320	Tot Cust Op 36/69			
	D. Corporate Operations Expenses			
7330	EAS Settlements 36	N/A	N/A	N/A
7331	All Other 36/69			
7332	#Big 3 Exp 36	N/A	N/A	N/A
7333	#Big 3 Exp 69			
7334	Tot Corp Oper 36/69			
	E. FCC Expense Adjustment			
7350	FCC Expense Adj 65			
7351	Tot Oper Exp 36/69			
	F. Operating Taxes			
	1. State and Local Taxes			
8000	St & Lcl Inc 36/69			
8001	#Appr Tax Inc 36/69			
8002	Direct Oth St&Lcl36	N/A	N/A	N/A
8003	All Oth St & Lcl 36	N/A	N/A	N/A
8004	#TPIS 36	N/A	N/A	N/A
8005	Tot Oth St & Lcl 69			
8006	#Combined Inv 69			
8007	Tot St&Lcl Tax36/69			

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TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Subject to Separations (b)	State (c)	Interstate (d)	Common Line Pay (e)	Common Line Inside Wire (f)	Common Line BFP (g)
	2. Federal Income Tax						
	a) Federal Income Tax Related Items						
8010	Fixed Charges 36/69						
8011	#Net Invest 36				N/A	N/A	N/A
8012	#Combined Inv 69	N/A	N/A				
8013	IRS Inc Adj 36/69						
8014	FCC Inc Adj 65	N/A	N/A				
8015	ITC Amort 36/69						
8016	#TPIS 36				N/A	N/A	N/A
8017	#Combined Inv 69	N/A	N/A				
8018	FCC ITC Adj 65	N/A	N/A				
	b) Federal Income Tax						
8020	Fed Inc Tax 36/69				N/A	N/A	N/A
8021	#Appr Tax Inc 36/69				N/A	N/A	N/A
8030	Tot Oper Tax 36/69				N/A	N/A	N/A
	VII. Return Data						
8040	Average Net Invest				N/A	N/A	N/A
8041	Net Return	N/A	N/A		N/A	N/A	N/A
8042	Rate of Return %	N/A	N/A		N/A	N/A	N/A
8043	FCC Refund	N/A	N/A		N/A	N/A	N/A
8044	Net Return Inc Ref	N/A	N/A		N/A	N/A	N/A
8045	ROR Including Ref %	N/A	N/A		N/A	N/A	N/A
	VIII. Other Data						
9000	CCL-Transitional 69	N/A	N/A		N/A	N/A	N/A
9001	CCL-Long Term 69	N/A	N/A		N/A	N/A	N/A
9002	USF 36				N/A	N/A	N/A
9003	#Total Loop Cost 36		N/A	N/A	N/A	N/A	N/A
9004	#Work Loops 36		N/A	N/A	N/A	N/A	N/A
9005	#Cost Per Loop 36		N/A	N/A	N/A	N/A	N/A
9006	Lifeline Connec 36				N/A	N/A	N/A
9007	#Households 36		N/A	N/A	N/A	N/A	N/A
9008	#Discount Per HH 36		N/A	N/A	N/A	N/A	N/A
9009	#Def Int Per HH 36		N/A	N/A	N/A	N/A	N/A
9010	Tot Bill Acc Lines		N/A	N/A	N/A	N/A	N/A

COMPANY: xxxxxxxxxxxxxxxxxxxxxxxxxxxxxx
STUDY AREA: xxxxxxxxxxxxxxxxxxx
PERIOD: From mmm yyyy To mmm yyyy
COSA: xxxx

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Total Common Line (i)	Traffic Sensitive: Switching (j)	EqualAccess (k)	Transport (l)	Information (m)	Total Traffic Sen (n)	Special Access (o)
	2. Federal Income Tax							
	a) Federal Income Tax Related Items							
8010	Fixed Charges 36/69							
8011	#Net Invest 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
8012	#Combined Inv 69							
8013	IRS Inc Adj 36/69							
8014	FCC Inc Adj 65							
8015	ITC Amort 36/69							
8016	#TPIS 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
8017	#Combined Inv 69							
8018	FCC ITC Adj 65							
	b) Federal Income Tax							
8020	Fed Inc Tax 36/69							
8021	#Appr Tax Inc 36/69							
8030	Tot Oper Tax 36/69							
	VII. Return Data							
8040	Average Net Invest							
8041	Net Return							
8042	Rate of Return %							
8043	FCC Refund							
8044	Net Return Inc Ref							
8045	ROR Including Ref %							
	VIII. Other Data							
9000	CCL-Transitional 69		N/A	N/A	N/A	N/A	N/A	N/A
9001	CCL-Long Term 69		N/A	N/A	N/A	N/A	N/A	N/A
9002	USF 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
9003	#Total Loop Cost 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
9004	#Work Loops 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
9005	#Cost Per Loop 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
9006	Lifeline Connec 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
9007	#Households 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
9008	#Discount Per HH 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
9009	#Def Int Per HH 36	N/A	N/A	N/A	N/A	N/A	N/A	N/A
9010	Tot Bill Acc Lines	N/A	N/A	N/A	N/A	N/A	N/A	N/A

TABLE I - SEPARATIONS AND ACCESS TABLE
(Dollars in Thousands)

Row	Category (a)	Total Access (p)	Billing & Collection (q)	IX (r)
	2. Federal Income Tax			
	a) Federal Income Tax Related Items			
8010	Fixed Charges 36/69			
8011	#Net Invest 36	N/A	N/A	N/A
8012	#Combined Inv 69			
8013	IRS Inc Adj 36/69			
8014	FCC Inc Adj 65			
8015	ITC Amort 36/69			
8016	#TPIS 36	N/A	N/A	N/A
8017	#Combined Inv 69			
8018	FCC ITC Adj 65			
	b) Federal Income Tax			
8020	Fed Inc Tax 36/69			
8021	#Appr Tax Inc 36/69			
8030	Tot Oper Tax 36/69			
	VII. Return Data			
8040	Average Net Invest		N/A	
8041	Net Return		N/A	N/A
8042	Rate of Return %		N/A	N/A
8043	FCC Refund		N/A	N/A
8044	Net Return Inc Ref		N/A	N/A
8045	ROR Including Ref %		N/A	N/A
	VIII. Other Data			
9000	CCL-Transitional 69		N/A	N/A
9001	CCL-Long Term 69		N/A	N/A
9002	USF 36	N/A	N/A	N/A
9003	#Total Loop Cost 36	N/A	N/A	N/A
9004	#Work Loops 36	N/A	N/A	N/A
9005	#Cost Per Loop 36	N/A	N/A	N/A
9006	Lifeline Connec 36	N/A	N/A	N/A
9007	#Households 36	N/A	N/A	N/A
9008	#Discount Per HH 36	N/A	N/A	N/A
9009	#Def Int Per HH 36	N/A	N/A	N/A
9010	Tot Bill Acc Lines	N/A	N/A	N/A

CERTIFICATION

I certify that I am an officer of _____; that I have examined the foregoing report and that to the best of my knowledge, information, and belief, all statements of fact contained in this report are true and that said report is an accurate statement of the affairs of the above named respondent in respect to the data set forth herein for the period from _____ to _____.

PRINTED NAME _____

POSITION _____

SIGNATURE _____

DATE _____

(Persons making willful false statements in this report form can be punished by fine or imprisonment under the Communications Act, 47 U.S.C. 220(e).)

CONTACT PERSON _____

TELEPHONE NUMBER _____

General Instructions Rev.

1. Items that need not be reported because they do not apply are designated by N/A. DO NOT override N/As. If a reporting carrier should wish to apply data to a field containing an N/A, the carrier must enter the amount(s) and an explanation as a footnote to the field. The amount(s) must not be entered in the N/A'd field. All other fields must be populated. If there are no data applicable to a given field, enter zero.

2. Reporting carriers must follow the specific instructions provided in the attached Column Descriptions and Row Instructions. In addition, carriers must follow the jurisdictional separations and access charge procedures set forth in Parts 36, 65 and 69 of the Commission's Rules and referenced in the Row Instructions. Carriers must explain any deviations in footnotes. Do not include explanatory notes in the transmittal letter; such notes must be included in the Footnotes section of the filing as indicated in the attached Automated Report Specifications and Paper Report Specifications.

3. The general structure of this report is as follows. Amounts that a carrier allocates between jurisdictions and/or among access categories and elements are indicated on rows that are not indented. Those rows are followed by rows indicating the allocation factor used to allocate the preceding lines. All allocation factors are indented one position and are preceded by the symbol "#". Unless otherwise indicated, all allocation factors must be reported in terms of actual amounts (i.e., minutes, seconds, miles, dollars, conversation-minute-miles, revenues, actual contacts, users, revenues, etc.) rather than in percentages. All factors that must be reported as a percentage are followed by the symbol "%". All directly assigned amounts must be reported on rows that are not followed by an indented allocation factor.

4. When reporting investment amounts for Plant, Other Investment, and Reserves, carriers that perform annual separations studies must report annual investment data; carriers that perform monthly, quarterly, or semi-annual studies must provide average investment data. For example, carriers that perform quarterly studies must sum the data from the four studies and divide by four. When reporting Revenues, Expenses, Taxes, Return (except rate of return), and Revenue Requirement data, carriers must provide the total annual data or the sum of monthly, quarterly, or semi-annual studies. When reporting allocation factors, carriers must report data as follows: (1) usage amounts, such as minutes, should be reported as total annual data or the sum of monthly, quarterly, or semi-annual studies that represent the total usage for 365 days. For example, seven day studies must be projected to reflect each month's total usage for a total of twelve months; (2) expenses or revenues, when used as an allocation factor, should be reported as total annual data or the sum of monthly, quarterly, or semi-annual studies; (3) allocation factors such as weighted actual contacts should be reported as total annual data or the sum of

monthly, quarterly, or semi-annual studies; (4) percentage allocation factors, such as the Loop Allocation Factor, should be reported as a weighted annual average; and (5) terminations, users, and miles should be reported as a weighted annual average.

NOTE: Minutes reported may not agree to billed minutes because minutes reported may be based on studies such as the seven day studies in the example for number (1), above.

5. On the reporting form, each row description is followed by an indication that the data the carrier must enter apply to Parts 36, 65 and/or 69, as appropriate. In cases in which the total interstate amount of the cost category is directly assigned pursuant to Part 69, the Part 69 data must be reported on the total row for that category as indicated in the row instructions for the total row. All Part 69 amounts for a cost category must equal the total of the amounts allocated to the interstate jurisdiction for that category.

6. All terms and abbreviations used in the report and instructions are defined in Section 69.2 of the Commission's Rules, the Glossary of the Separations Manual, Part 36 of the Commission's Rules.

7. All dollar amounts must be rounded to the nearest thousand, with the exception of rows 1273, 1335, 1453, 1495, 9005, 9007, 9008 and 9009. The dollar amounts in these rows must be rounded to the nearest penny and such amounts must be entered in dollars and cents (e.g., if cost per loop is $6.445 it must be entered as 6.45). Do not round row 9007. Amounts of minutes must be rounded to the nearest million except for toll minutes, which must be rounded to the nearest thousand. All seconds including weighted standard work seconds must be rounded to thousands. All weighted actual contacts, users, loops, and terminations must be reported in whole numbers. All conversation-minute-miles must be rounded to the nearest million. All circuit miles must be rounded to the nearest thousand. All rate of return amounts must be entered in percent and must be rounded to 2 decimal places (e.g., 12 2/3 percent should be entered as 12.67). All other percentage amounts must be entered in percent and must be rounded to 4 decimal places (e.g., 12 2/3 percent should be entered as 12.6667). All other amounts must be rounded to the nearest thousand.

8. All data must be reported "as earned", i.e., after adjustments to prior periods and SNFA adjustments.

9. If an entry is to be a subtraction, indicate so by placing a minus sign in the column immediately preceding the numeric data, e.g., use -4, NOT - 4 or (4) for the data disk file.

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10. Adjustments to accommodate reallocation of common power costs in Part 36 from the assignment method in Part 32 must be completed before entering data in this report. Although the reallocation of common power costs between COE categories does not occur until COE is separated, these adjustments must be made prior to entering data in the Access Report in order to preserve its linear integrity. If these adjustments are not made prior to entering the data in this report, columns (p) plus (q) plus (r) will not equal column (d) for rows 1100 through 1400.

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COLUMN DESCRIPTIONS

Each column is a cost category, access element, or summary thereof, as specified in the Commission's Rules.

Column	Description
b.	Subject to Separations - This amount reflects that portion of each row that must be allocated between the state and interstate jurisdictions pursuant to Part 36 of the Commission's Rules.
c.	State - This amount reflects that portion of each row that is allocated to the state jurisdiction pursuant to Part 36 of the Commission's Rules. The cost of detariffed CPE shall be entered in this column pursuant to Section 36.142.
d.	Interstate - This amount reflects that portion of each row that is allocated to the interstate jurisdiction pursuant to Part 36 of the Commission's Rules. Common Line - These columns reflect those amounts that are assigned to the Common Line Access element pursuant to Part 69 of the Commission's Rules.
e.	Pay - This amount reflects that portion of each row applicable to Pay Telephone Common Line Access charges pursuant to Part 69 of the Commission's Rules.
f.	Inside Wire - This amount reflects that portion of each row applicable to Common Line Access charges associated with inside wire pursuant to Part 69 of the Commission's Rules.
g.	Base Factor Portion (BFP) - This amount reflects that portion of Common Line Access charges not assigned to Pay, CPE or Inside Wire pursuant to Part 69 of the Commission's Rules.
i.	Total Common Line - The total of columns (e) through (g), unless the row item is not apportioned among the common line subelements because of the aggregate carrier common line charge. In these instances, total common line will be the only field populated for common line and will not, therefore, equal the total of columns (e) through (g).

Traffic Sensitive - These columns reflect those amounts that are assigned to the Traffic Sensitive Access elements and subelements pursuant to Part 69 of the Commission's Rules.

j. Switching - This amount reflects that portion of each row applicable to the Local Switching Access element pursuant to Part 69 of the Commission's Rules.

k. Equal Access - This amount includes only that portion of each row assigned to equal access pursuant to Part 36 of the Commission's Rules. This amount is directly assigned to Equal Access or is apportioned among the access elements pursuant to Part 69 of the Commission's Rules.

l. Transport - This amount reflects that portion of each row applicable to the Transport Access element pursuant to Part 69 of the Commission's Rules.

m. Information - This amount reflects that portion of each row applicable to the Information Access element pursuant to Part 69 of the Commission's Rules.

n. Total Traffic Sensitive - The total of columns (j) through (m).

o. Special Access - This amount reflects that portion of each row applicable to the Special Access element pursuant to Part 69 of the Commission's Rules.

p. Total Access - The total of columns (i), (n) and (o).

q. Billing and Collection - This amount reflects that portion of each row applicable to Billing and Collection services pursuant to Part 69 of the Commission's Rules.

r. Interexchange (IX) - This amount reflects that portion of each row applicable to Interexchange services pursuant to Part 69 of the Commission's Rules.

I. Equal Access

Note: The first step in the separations process is the removal of equal access costs from the primary accounts. These costs include only initial, incremental expenditures for hardware, other equipment, presubscription, and other initial, incremental expenditures related directly to the provision of equal access and which expenditures would not be required to upgrade the capabilities of the office involved absent the provision of equal access. Equal access investment and expenses are limited to such expenditures for converting central offices that serve competitive interexchange carriers in cases in which there has been a bona fide request for conversion to equal access. See Sections 36.191(a) and 36.421. In Section I of the ARMIS Access Report, carriers must report all costs that meet these criteria. In subsequent sections, carriers must report all other costs after removing equal access costs. Carriers having an equal access element must enter these costs in the equal access column (column k). Carriers not having an equal access element must enter these costs in the appropriate column.

A. Telecommunications Property

10 Equal Access investment in General Support Facilities that is allocated pursuant to Sections 36.191(c) and 69.308(a). See also Section 36.111.

11 Equal Access minutes-of-use used to allocate Equal Access investment in General Support Facilities pursuant to Section 36.191(c).

12 Equal Access investment in Category 2 Central Office Equipment (COE) that is allocated pursuant to Sections 36.191(c) and 69.308(a). See also Section 36.124.

13 Equal Access minutes-of-use used to allocate Equal Access investment in Category 2 COE pursuant to Section 36.191(c).

14 Equal Access investment in Category 3 COE that is allocated pursuant to Sections 36.191(c) and 69.308(a).

15 Equal Access minutes-of-use used to allocate Equal Access investment in Category 3 COE pursuant to Section 36.191(c).

16 Equal Access investment in other COE that is allocated pursuant to Sections 36.191(c) and 69.308(a). See also Sections 36.123 and 36.126.

17 Equal Access minutes-of-use used to allocate Equal Access investment in Other COE pursuant to Section 36.191(c).

18 Equal Access investment in Information Origination/Termination equipment that is allocated pursuant to Sections 36.191(c) and 69.308(a). See also Section 36.141.

19 Equal Access minutes-of-use used to allocate Equal Access investment in Information Origination/Termination equipment pursuant to Section 36.191(c).

20 Equal Access investment in Cable and Wire Facilities (C&WF) that is allocated pursuant to Sections 36.191(c) and 69.308(a). See also Section 36.151(a).

21 Equal Access minutes-of-use used to allocate equal access investment in C&WF pursuant to Section 36.191(c).

22 Equal Access investment in Amortizable Assets that is allocated pursuant to Sections 36.191(c) and 69.308(a). See also Section 36.161.

23 Equal Access minutes-of-use used to allocate equal access investment in Amortizable Assets pursuant to Section 36.191(c).

24 Equal Access investment in other plant that is allocated pursuant to Sections 36.191(c) and 69.308(a). See also Sections 36.171 and 36.172.

25 Equal Access minutes-of-use used to allocate equal access investment in other plant pursuant to Section 36.191(c).

26 Material and Supplies that are associated with Equal Access and are allocated pursuant to Sections 36.191(c) and 69.308(a). See also Section 36.181.

27 Equal Access minutes-of-use used to allocate associated Material and Supplies pursuant to Section 36.191(c).

28 Cash Working Capital that is associated with Equal Access and is allocated pursuant to Sections 36.191(c) and 69.308(a). See also Section 36.182.

29 Equal Access minutes-of-use used to allocate associated Cash Working Capital pursuant to Section 36.191(c).

30 Total Equal Access Telecommunications Property, total of rows 10, 12, 14, 16, 18, 20, 22, 24, 26, and 28.

B. Reserves and Deferrals

40 Accumulated depreciation that is related to Equal Access investment and is allocated pursuant to Sections 36.191(c) and 69.308(a). See also Section 36.503(a).

41 Equal Access minutes-of-use used to allocate related accumulated depreciation pursuant to Section 36.191(c).

42 Accumulated amortization of Tangible and Intangible Assets and other accumulated amortization that is associated with Equal Access and is allocated pursuant to Sections 36.191(c) and 69.308(a). See also Section 36.505(a).

43 Equal Access minutes-of-use used to allocate associated accumulated amortization pursuant to Section 36.191(c).

44 Net Current Deferred Operating Income Taxes that are associated with Equal Access and are allocated pursuant to Sections 36.191(c) and 69.308(a). See also Section 36.506(a).

45 Equal Access minutes-of-use used to allocate associated Net Current Deferred Operating Income Taxes pursuant to Section 36.191(c).

46 Net Noncurrent Deferred Operating Income Taxes that are associated with Equal Access and are allocated pursuant to Sections 36.191(c) and 69.308(a). See also Section 36.506(a).

47 Equal Access minutes-of-use used to allocate associated Net Noncurrent Deferred Operating Income Taxes pursuant to Section 36.191(c).

48 All Other reserves and deferrals that are associated with Equal Access and are allocated pursuant to Sections 36.191(c) and 69.308(a). See also Section 36.507(a).

49 Equal Access minutes-of-use used to allocate all other associated reserves and deferrals pursuant to Section 36.191(c).

50 Total reserves and deferrals related to Equal Access, total of rows 40, 42, 44, 46, and 48.

51 Net Equal Access investment, row 30 less row 50, including amounts that are directly assigned pursuant to Section 69.308(a).

C. Operating Expenses Rev.

NOTE: Pursuant to National Exchange Carrier Association, 3 FCC Rcd 6042 (1988), members of the National Exchange Carrier Association traffic sensitive pool may treat equal access expenses as expenses incurred in the current year. Those expenses must be reported on rows 60 to 83. All other carriers capitalize those expenses and amortize them over an eight year period pursuant to Petition for Recovery of Equal Access and Network Reconfiguration Costs, 1 FCC Rcd 434, 437 (1986) (Equal Access Reconsideration Order). Those amounts must be reported on rows 90 to 93. Those carriers that capitalize expenses and amortize them over eight years must show the current year's depreciation and amortization expenses on row 76 and all corporate operations expenses on rows 90 through 93.

60 General Support Expenses that are associated with Equal Access and are allocated pursuant to Sections 36.421(b) and 69.410(a). See also Section 36.111.

61 Equal Access minutes-of-use used to allocate associated General Support Expenses pursuant to Section 36.421(b). See also Section 36.111.

62 Network Support Expenses that are associated with Equal Access and are allocated pursuant to Sections 36.421(b) and 69.410(a). See also Section 36.111.

63 Equal Access minutes-of-use used to allocate associated Network Support Expenses that are related to Equal Access pursuant to Sections 36.421(b).

64 Central Office Expenses that are associated with Equal Access and are allocated pursuant to Sections 36.421(b) and 69.410(a). See also Section 36.321(a).

65 Equal Access minutes-of-use used to allocate associated Central Office Expenses pursuant Section 36.421(b).

66 Information Origination/Termination Expenses that are associated with Equal Access and are allocated pursuant to Sections 36.421(b) and 69.410(a). See also Section 36.331.

67 Equal Access minutes-of-use used to allocate associated Information Origination/Termination Expenses pursuant to Section 36.421(b).

68 C&WF Expenses that are associated with Equal Access and are allocated pursuant to Sections 36.421(b) and 69.410(a). See also Section 36.341(a).

69 Equal Access minutes-of-use used to allocate associated C&WF Expenses pursuant to Section 36.421(b).

70 Other Property Plant and Equipment Expenses that are associated with Equal Access and are allocated pursuant to Sections 36.421(b) and 69.410(a). See also Section 36.352(a).

71 Equal Access minutes-of-use used to allocate associated Other Property Plant and Equipment Expenses pursuant to Section 36.421(b).

72 Network Operations Expenses that are associated with Equal Access and are allocated pursuant to Sections 36.421(b) and 69.410(a). See also Section 36.353.

73 Equal Access minutes-of-use used to allocate associated Network Operations Expenses pursuant to Section 36.421(b).

74 Access Expenses that are associated with Equal Access and are allocated pursuant to Sections 36.421(b) and 69.410(a). See also Section 36.354(a).

75 Equal Access minutes-of-use used to allocate associated Access Expenses pursuant to Section 36.421(b).

76 Depreciation and amortization expenses that are associated with Equal Access and are allocated pursuant to Sections 36.421(b) and 69.410(a). See also Section 36.361(a).

77 Equal Access minutes-of-use used to allocate associated depreciation and amortization expenses pursuant to Section 36.421(b).

78 Marketing Expenses that are associated with Equal Access and are allocated pursuant to Sections 36.421(b) and 69.410(a). See also Section 36.372(a).

79 Equal Access minutes-of-use used to allocate associated Marketing Expenses pursuant to Section 36.421(b).

80 Services Expenses that are associated with Equal Access and are allocated pursuant to Sections 36.421(b) and 69.410(a). See also Section 36.373(a).

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81 Equal Access minutes-of-use used to allocate associated Services Expenses pursuant to Section 36.421(b).

82 Corporate Operations Expenses that are associated with Equal Access and are allocated pursuant to Sections 36.421(b) and 69.410(a).

83 Equal Access minutes-of-use used to allocate associated Corporate Operations Expenses pursuant to Section 36.421(b).

84 Total expenses associated with Equal Access, total of rows 60, 62, 64, 66, 68, 70, 72, 74, 76, 78, 80, and 82, including amounts that are directly assigned pursuant to Section 69.410(a).

D. Deferred Charges and Expense Amortization

90 Deferred charges (Account 1439) beginning balance for the period, which are Equal Access capitalized expenses pursuant to Equal Access Reconsideration Order, 1 FCC Rcd at 437.

91 Current period Equal Access expenses that are capitalized to Deferred Charges (Account 1439) in the current period. See Equal Access Reconsideration Order, 1 FCC Rcd at 437.

92 Current period Equal Access expenses that were capitalized but are treated as an expense during the current period (Account 6728). See Equal Access Reconsideration Order, 1 FCC Rcd at 437.

93 Average deferred charges balance for the current period for Equal Access Expenses that are capitalized.

II. Telecommunications Plant

A. General Support Facilities (GSF)

999 General Support Facilities that are directly assigned pursuant to Section 36.1(c) and apportioned pursuant to Section 69.307.

1000 General Support Facilities that are allocated pursuant to Sections 36.111-.112 and 69.307.

1001 Big Three Expense amounts used by Class A carriers to allocate General Support Facilities pursuant to Section 36.112(a).

1002 Investment amounts used by Class B carriers to allocate General Support Facilities pursuant to Section 36.112(b).

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1003 Investment amounts used to allocate General Support Facilities pursuant to Section 69.307.

1004 Total General Support Facilities, total of rows 999 and 1000.

B. Central Office Equipment (COE)

1. Category 1 COE, Operator Systems Equipment

a) Switchboards at Toll Centers

1100 Separate toll boards that are allocated pursuant to Section 36.123(b) and are directly assigned pursuant to Section 69.306(b).

1101 Weighted standard work seconds that are used to allocate separate toll boards pursuant to Section 36.123(b).

1102 Separate local manual boards that are allocated pursuant to Section 36.123(b) and are directly assigned pursuant to Section 69.306(b).

1103 Weighted standard work seconds that are used to allocate separate local manual boards pursuant to Section 36.123(b).

1104 Combined local and toll boards that are allocated pursuant to Section 36.123(b) and are directly assigned pursuant to Section 69.306(b).

1105 Weighted standard work seconds that are used to allocate combined local and toll boards pursuant to Section 36.123(b).

1106 Combined toll and DSA boards that are allocated pursuant to Section 36.123(b) and are directly assigned pursuant to Section 69.306(b).

1107 Weighted standard work seconds that are used to allocate combined toll and DSA boards pursuant to Section 36.123(b).

1108 Separate DSA boards that are allocated pursuant to Section 36.123(b) and are directly assigned pursuant to Section 69.306(b).

1109 Weighted standard work seconds used to allocate separate DSA boards pursuant to Section 36.123(b).

1110 Separate DSB boards that are allocated pursuant to Section 36.123(b) and are directly assigned pursuant to Section 69.306(b).

1111 Weighted standard work seconds that are used to allocate separate DSB boards pursuant to Section 36.123(b).

1112 Total switchboards at toll centers, total of rows 1100, 1102, 1104, 1106, 1108, and 1110.

b) Service Observing Boards

1120 Joint service observing boards that are apportioned between exchange and toll pursuant to Section 36.123(d). This amount is disaggregated between the exchange and toll portions of joint service observing boards on rows 1123 and 1124.

1121 Number of exchange service observing units used to apportion the cost of service observing boards between exchange and toll pursuant to Section 36.123(d).

1122 Number of toll service observing units used to apportion the cost of service observing boards between exchange and toll pursuant to Section 36.123(d).

1123 Exchange portion of joint service observing boards that are directly assigned pursuant to Section 36.123(d). See instructions for row 1120.

1124 Toll portion of joint service observing boards that are allocated pursuant to Section 36.123(d). See instructions for row 1120.

1125 Separate toll service observing boards that are allocated pursuant to Section 36.123(d).

1126 Total separate toll service observing boards and the toll portion of joint service observing boards that are allocated pursuant to Sections 36.123(d) and 69.306(b). This amount is the total of rows 1124 and 1125.

1127 Toll minutes-of-use that are used to allocate the toll portion of joint service observing boards and separate toll service observing boards pursuant to Section 36.123(d).

1128 Remaining combined investment in Categories 1, 2, and 3 COE used to allocate service observing boards pursuant to Section 69.306(b).

1129 Total service observing boards, total of rows 1123 and 1126.

c) Auxiliary Service Boards

1130 Separate directory assistance boards that are apportioned between toll and other pursuant to Section 36.123(c)(1) and are directly assigned pursuant to Section 69.306(b).

1131 Toll weighted standard work seconds used to apportion the cost of separate directory assistance boards between toll and other pursuant to Section 36.123(c)(1)(i).

1132 Other weighted standard work seconds used to apportion the cost of separate directory assistance boards between toll and other pursuant to Section 36.123(c)(1)(i).

1133 The portion of auxiliary service boards associated with toll directory assistance service that is allocated pursuant to Sections 36.123(c)(1)(i) and 69.306(b).

1134 Toll weighted standard work seconds used to allocate the portion of auxiliary service boards associated with toll directory assistance service pursuant to Sections 36.123(c)(1)(i).

1135 The portion of auxiliary service boards associated with other directory assistance that is allocated pursuant to Sections 36.123(c)(1)(i) and 69.306(b).

1136 Other weighted standard work seconds used to allocate the portion of auxiliary service boards associated with other directory assistance pursuant to Section 36.123(c)(1)(ii).

1137 Separate intercept boards and automated intercept systems that are allocated pursuant to Section 36.123(c)(2) and are directly assigned pursuant to Section 69.306(b).

1138 Subscriber line minutes-of-use that are used to allocate separate intercept boards and automated intercept systems pursuant to Section 36.123(c)(2).

1139 Joint auxiliary weighted standard work seconds associated with directory assistance pursuant to Section 36.123(c)(4).

1140 Joint auxiliary weighted standard work seconds associated with intercept service pursuant to Section 36.123(c)(4).

1141 Joint auxiliary weighted standard work seconds associated with rate and route boards pursuant to Section 36.123(c)(4).

1142 Toll weighted standard work seconds used to apportion the portion of joint auxiliary service boards associated with directory assistance pursuant to Sections 36.123(c)(1)(i) and (c)(4).

1143 Other weighted standard work seconds used to apportion the portion of joint auxiliary service boards associated with directory assistance pursuant to Sections 36.123(c)(1)(i) and (c)(4).

1144 Joint auxiliary service boards that are associated with directory assistance and are apportioned between toll and other pursuant to Sections 36.123(c)(1)(i) and 36.123(c)(4) and are directly assigned pursuant to Section 69.306(b).

1145 Toll portion of joint auxiliary service boards that are associated with directory assistance and are allocated pursuant to Sections 36.123(c)(1)(ii) and (c)(4).

1146 Toll weighted standard work seconds used to allocate the toll portion of joint auxiliary service boards associated with toll directory assistance pursuant to Sections 36.123(c)(1)(ii) and (c)(4).

1147 The other portion of joint auxiliary service boards that are associated with other directory assistance and are allocated pursuant to Sections 36.123(c)(1)(ii) and (c)(4).

1148 Other weighted standard work seconds used to allocate the portion of joint auxiliary service boards associated with other directory assistance pursuant to Sections 36.123(c)(1)(ii) and (c)(4).

1149 The portion of joint auxiliary service boards associated with intercept service and allocated pursuant to Sections 36.123(c)(2) and (c)(4) and are directly assigned pursuant to Section 69.306(b).

1150 Subscriber line minutes-of-use used to allocate the portion of joint auxiliary service boards associated with intercept service pursuant to Sections 36.123(c)(2) and (c)(4).

1151 The portion of joint auxiliary service boards associated with rate and route service that is allocated pursuant to Section 36.123(c)(4) and is directly assigned pursuant to Section 69.306(b).

1152 Rate and route weighted standard work seconds used to allocate the portion of joint auxiliary service boards associated with rate and route service pursuant to Section 36.123(c)(4).

1153 Total joint auxiliary service boards, total of rows 1144, 1149, and 1151.

1154 Total auxiliary service boards, total of rows 1130, 1137, and 1153.

d) Traffic Service Positions

1160 Operator Traffic Service Position Systems that are allocated pursuant to Section 36.123(e)(1) and directly assigned pursuant to Section 69.306(b).

1161 Weighted standard work seconds used to allocate Operator Traffic Service Position Systems pursuant to Section 36.123(e)(1).

1162 Remote trunking arrangements that are allocated pursuant to Section 36.123(e)(2) and directly assigned pursuant to Section 69.306(b).

1163 Processor real time (in seconds) used to allocate remote trunking arrangements pursuant to Section 36.123(e)(2).

1164 Remaining investment at the central control location that is allocated pursuant to Section 36.123(e)(3) and directly assigned pursuant to Section 69.306(b).

1165 Processor real time (in seconds) used to allocate the remaining investment pursuant to Section 36.123(e)(3).

1166 Other Traffic Service Positions associated with common basic control units that are allocated pursuant to Section 36.123(b)(1)(iv) and directly assigned pursuant to Section 69.306(b).

1167 Weighted standard work seconds used to allocate other Traffic Service Position Systems pursuant to Section 36.123(b)(1)(iv).

1168 Total Traffic Service Positions, total of rows 1160, 1162, 1164, and 1166, including amounts that are directly assigned pursuant to Section 69.306(b).

1170 Total Category 1 COE, total of rows 1112, 1129, 1154, and 1168.

2. Category 2 COE, Tandem Switching Equipment

1200 Tandem Switching Equipment that is associated with private lines and is directly assigned pursuant to Section 36.124(b).

1201 Tandem Switching Equipment that is associated with message use and is directly assigned pursuant to Section 36.124(b).

1202 Tandem Switching Equipment that is jointly used and is allocated pursuant to Section 36.124(b).

1203 Tandem minutes-of-use used to allocate jointly used Tandem Switching Equipment pursuant to Section 36.124(b).

1204 Total Category 2 COE, total of rows 1200, 1201, and 1202 including Category 2 COE that is directly assigned pursuant to Section 69.306(c).

3. Category 3 COE, Local Switching Equipment

1210 Local Switching Equipment that is associated with private lines and is directly assigned pursuant to Section 36.1(c).

1211 Local Switching Equipment that is associated with message use and is directly assigned pursuant to Section 36.1(c).

1212 Local Switching Equipment amount that is allocated pursuant to Section 36.125.

1213 Interstate allocation factor (in percent) used to allocate Category 3 COE pursuant to Section 36.125(c).

1214 Composite allocation factor (in percent) used to compute the interstate allocation factor used to allocate Category 3 COE pursuant to Section 36.125(c).

1215 "A Component" (in percent) used to calculate the interstate allocation factor used to allocate Category 3 COE pursuant to Section 36.125(d).

1216 Dial Equipment Minutes (minutes of holding time of originating and terminating local switching equipment, as defined in the Glossary of Part 36) used to calculate the interstate allocation factor pursuant to Sections 36.125(b) and (c).

1217 "B Component" (in percent) used to calculate the interstate allocation factor used to allocate Category 3 COE pursuant to Sections 36.125(c) and (d).

1219 Total Category 3 COE, total of rows 1210, 1211, and 1212 including Category 3 COE that is directly assigned pursuant to Section 69.306(d).

4. Category 4 COE, Circuit Equipment

a) Category 4.1, Exchange Circuit Equipment

(1) Category 4.11, Wideband Exchange Line Circuit Equipment

1220 Category 4.11 COE that is associated with private line circuits and is directly assigned pursuant to Sections 36.126(c)(1) and 36.155.

1221 Category 4.11 COE that is associated with message circuits and is directly assigned pursuant to Sections 36.126(c)(1) and 36.155.

1222 Category 4.11 COE that is jointly used and is allocated pursuant to Sections 36.126(c)(1) and 36.155.

1223 Minutes-of-use used to allocate jointly used Category 4.11 COE pursuant to Sections 36.126(c)(1) and 36.155.

1224 Total Category 4.11 COE, total of rows 1220, 1221, and 1222 including Category 4.11 COE that is directly assigned pursuant to Section 69.305 and Amendment of Part 69 of the Commission's Rules and Regulations, Access Charges, to Conform It with Part 36, Jurisdictional Separations Procedures, CC Docket No. 87-113, FCC 88-400 released December 12, 1988, 4 FCC Rcd 765, 772 (1988) (Part 69 Reconsideration Order), at para. 48.

(2) Category 4.12 COE, Exchange Trunk Circuit Equipment (Wideband and Non-Wideband)

NOTE: Category 4.12 COE is divided into basic and special if amounts of exchange and interexchange special circuit equipment are significant pursuant to Section 36.126(b)(4). If the reporting carrier does not segregate Category 4.12 COE into basic and special, it must report all such COE as basic.

(a) Basic Non-Wideband Category 4.12 COE

1230 Basic non-wideband Category 4.12 COE that is associated with private line circuits and is directly assigned pursuant to Section 36.126(c)(2) and 36.155.

1231 Basic non-wideband Category 4.12 COE that is associated with message circuits and is directly assigned pursuant to Sections 36.126(c)(2) and 36.155.

1232 Basic non-wideband Category 4.12 COE that is jointly used and is allocated pursuant to Sections 36.126(c)(2) and 36.155.

1233 Minutes-of-use used to allocate jointly used Category 4.12 COE pursuant to Sections 36.126(c)(2) and 36.155.

1234 Total basic non-wideband Category 4.12 COE, total of rows 1230, 1231, and 1232.

(b) Special Non-Wideband Category 4.12 COE

1240 Special non-wideband Category 4.12 COE that is associated with private line circuits and is directly assigned pursuant to Sections 36.126(c)(2) and 36.155. See also Glossary, Part 36.

1241 Special non-wideband Category 4.12 COE that is associated with TWX circuits and is allocated pursuant to Sections 36.126(c)(2) and 36.155.

1242 TWX minutes-of-use used to allocate special non-wideband Category 4.12 COE that is associated with TWX circuits pursuant to Sections 36.126(c)(2) and 36.155.

1243 Total special non-wideband Category 4.12 COE, total of rows 1240 and 1241.

(c) Wideband Category 4.12 COE

1250 Wideband Category 4.12 COE that is associated with private line circuits and is directly assigned pursuant to Sections 36.126(c)(2) and 36.155.

1251 Wideband Category 4.12 COE that is associated with message circuits and is directly assigned pursuant to Sections 36.126(c)(2) and 36.155.

1252 Wideband Category 4.12 COE that is jointly used and is allocated pursuant to Sections 36.126(c)(2) and 36.155.

1253 Minutes-of-use used to allocate wideband Category 4.12 COE pursuant to Sections 36.126(c)(2) and 36.155.

1254 Total wideband Category 4.12 COE, total of rows 1250, 1251, and 1252.

1260 Total Category 4.12 COE, total of rows 1234, 1243, and 1254 including Wideband Category 4.12 COE that is directly assigned pursuant to the Part 69 Reconsideration Order, at para. 48.

(3) Category 4.13 COE, Exchange Line Circuit Equipment Excluding Wideband

NOTE: Category 4.13 COE is divided into basic and special if amounts of exchange and interexchange special circuit equipment are significant pursuant to Section 36.126(b)(4). If the reporting carrier does not segregate Category 4.13 COE into basic and special, it must report all such COE as basic.

(a) Basic Category 4.13 COE

1270 Total number of working loops used to allocate basic Category 4.13 COE pursuant to Sections 36.126(c)(3) and 36.154(a).

1271 Number of working loops that are associated with private lines and WATS lines pursuant to Sections 36.126(c)(3) and 36.154(a).

1272 Number of working loops that are associated with subscriber or common lines that are jointly used for state and interstate interexchange services pursuant to Sections 36.126(c)(3) and 36.154(a).

1273 Average cost per working loop that is used to allocate basic Category 4.13 COE pursuant to Sections 36.126(c)(3) and 36.154(a).

1274 Basic Category 4.13 COE that is associated with private line circuits and WATS circuits and is directly assigned pursuant to Sections 36.126(c)(3) and 36.154(a) and (b).

1275 Basic Category 4.13 COE that is associated with subscriber or common lines that are jointly used for local exchange service and exchange access for state and interstate interexchange services and which investment is allocated pursuant to Sections 36.126(c)(3) and 36.154(c)-(f).

1276 Loop allocation factor (in percent) used to allocate basic Category 4.13 COE subscriber or common lines pursuant to Sections 36.126(c)(3) and 36.154(c)-(f). For the calculation of the loop allocation factor, see Section 36.154(c)-(f) and infra rows 1456-1459.

1277 Total basic Category 4.13 COE, total of rows 1274 and 1275.

(b) Special Category 4.13 COE

1280 Special Category 4.13 COE that is associated with private line circuits and is directly assigned pursuant to Sections 36.126(c)(3) and 36.154(a) and (b). See also Glossary, Part 36.

1281 Special Category 4.13 COE that is associated with TWX circuits and is allocated pursuant to Sections 36.126(c)(3) and 36.155.

1282 TWX minutes-of-use used to allocate special Category 4.23 COE that is associated with TWX circuits pursuant to Sections 36.126(c)(3) and 36.155.

1283 Total special Category 4.13 COE, total of rows 1280 and 1281.

1290 Total Category 4.13 COE, total of rows 1277, and 1283, including Category 4.13 COE that is directly assigned pursuant to Section 69.304 and the Part 69 Reconsideration Order, at para. 48.

1300 Total Category 4.1 COE, total of rows 1224, 1260, and 1290.

b) Category 4.2 COE, Interexchange Circuit Equipment

(1) Category 4.21 COE, Interexchange Circuit Equipment Furnished to Another Company for Interstate Use.

1310 Category 4.21 COE that is directly assigned pursuant to Sections 36.126(e)(1) and 69.305 and the Part 69 Reconsideration Order, at para. 48.

(2) Category 4.22 COE, Interexchange Circuit Equipment Used for Wideband Service

1320 Category 4.22 COE that is associated with private line circuits and is directly assigned pursuant to Sections 36.126(e)(2) and 36.156(b).

1321 Category 4.22 COE that is associated with message circuits and is directly assigned pursuant to Sections 36.126(e)(2) and 36.156(b).

1322 Category 4.22 COE that is jointly used and is allocated pursuant to Sections 36.126(e)(2) and 36.156(b).

1323 Conversation-minute-miles used to allocate jointly used Category 4.22 COE pursuant to Sections 36.126(e)(2) and 36.156(b).

1324 Total Category 4.22 COE, total of rows 1320, 1321, and 1322 including Category 4.22 COE that is directly assigned pursuant to Section 69.305 and the Part 69 Reconsideration Order, at para. 48.

(3) Category 4.23 COE, All Other Interexchange Circuit Equipment

NOTE: Category 4.23 COE is divided into special and basic if amounts of exchange and interexchange special circuit equipment are significant pursuant to Section 36.126(b)(4). If the reporting carrier does not segregate Category 4.23 COE into basic and special, it must report all such COE as basic.

(a) Basic Category 4.23 COE

1330 Total terminations used to determine the amount of basic Category 4.23 COE pursuant to Section 36.126(e)(3)(i).

1331 Terminations used to determine the amount of private line basic Category 4.23 COE investment pursuant to Section 36.126(e)(3)(i).

1332 Terminations used to determine the amount of directly assigned message basic Category 4.23 COE pursuant to Section 36.126(e)(3)(i).

1333 Terminations used to determine the amount of jointly used message basic Category 4.23 COE pursuant to Section 36.126(e)(3)(i).

1334 Terminations used to determine the amount of TWX basic Category 4.23 COE pursuant to Section 36.126(e)(3)(i).

1335 Average cost per termination that is used to determine the cost of basic Category 4.23 COE pursuant to Section 36.126(e)(3)(i).

1336 Basic Category 4.23 that is associated with private line circuits and is directly assigned pursuant to Section 36.126(e)(3)(i).

1337 Basic Category 4.23 COE that is associated with message circuits and is directly assigned pursuant to Sections 36.1(c) and 36.126(e)(3)(i).

1338 Basic Category 4.23 COE that is jointly used and is allocated pursuant to Section 36.126(e)(3)(i).

1339 Conversation-minutes used to allocate jointly used Category 4.23 COE pursuant to Section 36.126(e)(3)(i).

1340 Basic Category 4.23 COE that is associated with TWX circuits and is allocated pursuant to Section 36.126(e)(3)(ii).

1341 Connection-minutes used to allocate basic Category 4.23 COE that is associated with TWX circuits pursuant to Section 36.126(e)(3)(ii).

1342 Total basic Category 4.23 COE, total of rows 1336, 1337, 1338, and 1340.

(b) Special Category 4.23 COE

1350 Special Category 4.23 COE that is associated with private line circuits and is directly assigned pursuant to Section 36.126(e)(3).

1351 Special Category 4.23 COE that is associated with TWX circuits and is allocated pursuant to Sections 36.126(e)(3)(ii) and (iii).

1352 Connection-minutes used to allocate special Category 4.23 COE that is associated with TWX circuits pursuant to Sections 36.126(e)(3)(ii) and (iii).

1360 Total special Category 4.23 COE, total of rows 1350 and 1351.

1370 Total Category 4.23 COE, total of rows 1342 and 1360, including Category 4.23 COE that is directly assigned pursuant to Section 69.305 and the Part 69 Reconsideration Order, at para. 48.

1380 Total Category 4.2 COE, total of rows 1310, 1324, and 1370.

c) Category 4.3 COE, Host/Remote Message Circuit Equipment

1390 WATS Category 4.3 COE that is directly assigned pursuant to Sections 36.126(f)(1) and 36.157(a)(2).

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1391 Message Category 4.3 COE that is directly assigned pursuant to Sections 36.1(c) and 36.126(f)(1).

1392 Message Category 4.3 COE that is jointly used and is allocated pursuant to Sections 36.126(f)(1)(i) and 36.157(a)(1).

1393 Minutes-of-use-miles used to allocate message Category 4.3 COE pursuant to Sections 36.126(f)(1)(i) and 36.157(a)(1).

1394 Total Category 4.3 COE, total of rows 1390, 1391, and 1392 including Category 4.3 COE that is directly assigned pursuant to Section 69.305 the Part 69 Reconsideration Order.

1400 Total Category 4 COE, total of rows 1300, 1380, and 1394.

1410 Total COE, total of rows 1170, 1204, 1219 and 1400.

C. Information Origination/Termination Equipment (IOT)

1. Category 1 Other Information Origination/Termination Equipment

NOTE: Rows 1420 through 1423 provide Part 36 detail and rows 1424 through 1428 provide Part 69 detail.

Part 36 Detail

1419 Other Information Origination/Termination Equipment that is directly assigned pursuant to Section 36.1(c).

1420 Other Information Origination/Termination Equipment, less coinless pay telephone equipment, that is allocated pursuant to Section 36.142(a).

1421 Loop allocation factor (in percent) that is used to allocate Other Information Origination/Termination Equipment pursuant to Section 36.142(a).

1422 Other Information Origination/Termination Equipment that is associated with coinless pay telephone equipment and is allocated pursuant to Section 36.142(a).

1423 Exchange carrier minutes-of-use used to allocate coinless pay telephone equipment pursuant to Section 36.142(a).

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Part 69 Detail

1424 Investment in public telephone equipment that is directly assigned pursuant to Section 69.303(a).

1425 Other Information Origination/Termination Equipment that is allocated pursuant to Section 69.303(b).

1426 Number of equivalent lines used to allocate all Other Information Origination/Termination Equipment pursuant to Section 69.303(b).

1427 Loop allocation factor (in percent) used to determine the number of equivalent local exchange subscriber lines pursuant to Section 69.303(b). For a definition of the loop allocation factor, see Section 36.154(c)-(f) and infra rows 1456-1459.

1428 Total Category 1, Other Information Origination/Termination Equipment, total of rows 1419, 1420, 1422, 1424, and 1425. Exception: for Column d, include in total only rows 1419, 1420, and 1422.

2. Category 2 Information Origination/Termination Equipment-New Customer Premises Equipment

1430 Category 2 Information Origination/Termination Equipment that is directly assigned pursuant to Section 36.142(b).

1440 Total Information Origination/Termination Equipment, total of rows 1428 and 1430.

D. Cable and Wire Facilities (C&WF)

1. Category 1 C&WF-Exchange Line C&WF

1450 Total number of working loops used to determine the amount of Category 1 C&WF pursuant to Section 36.154(a).

1451 Number of working loops that are associated with private lines and WATS lines pursuant to Section 36.154(a).

1452 Number of working loops that are associated with subscriber or common lines that are jointly used for local exchange service and exchange access for state and interstate interexchange services pursuant to Section 36.154(a).

1453 Average cost per working loop used to determine Category 1 C&WF pursuant to Section 36.154(a).

1454 Categories 1.1 and 1.2 C&WF that are associated with private lines and WATS lines and are directly assigned pursuant to Sections 36.154(a) and (b).

1455 Category 1.3 C&WF that is associated with subscriber or common lines that are jointly used for local exchange service and exchange access for state and interstate interexchange services and are allocated pursuant to Sections 36.154(c)-(f).

1456 Frozen 1981 SPF (in percent) used to calculate the allocation factor for Category 1 C&WF pursuant to Section 36.154(e).

1457 Previous year adjusted transitional SPF (in percent) (including any adjustments) used to calculate the allocation factor for Category 1 C&WF pursuant to Section 36.154(f).

1458 Current year adjusted transitional SPF (in percent) (including any adjustments) used to calculate the allocation factor for Category 1 C&WF pursuant to Section 36.154(f).

1459 Loop allocation factor (in percent) used to allocate Category 1 C&WF pursuant to Section 36.154(d).

1460 Total Category 1 C&WF, total of rows 1454 and 1455 including Category 1 C&WF that is directly assigned pursuant to Section 69.304.

2. Category 2 C&WF-Wideband and Exchange Trunk (C&WF)

a) Exchange Trunk Category 2 C&WF (Non-Wideband)

1470 Non-Wideband exchange trunk Category 2 C&WF that is associated with private lines and WATS lines and is directly assigned pursuant to Section 36.155.

1471 Non-Wideband exchange trunk that is associated with message use and is directly assigned pursuant to Section 36.155.

1472 Non-Wideband exchange trunk Category 2 C&WF that is jointly used and is allocated pursuant to Section 36.155.

1473 Minutes-of-use that are used to allocate non-wideband exchange trunk Category 2 C&WF pursuant to Section 36.155.

1474 Total non-wideband exchange trunk Category 2 C&WF, total of rows 1470, 1471, and 1472.

b) Wideband Category 2 C&WF

1480 Wideband Category 2 C&WF that is associated with private lines and WATS lines and is directly assigned pursuant to Section 36.155.

1481 Wideband Category 2 C&WF that is associated with message use and is directly assigned pursuant to Section 36.155.

1482 Wideband Category 2 C&WF that is jointly used and is allocated pursuant to Section 36.155.

1483 Minutes-of-use used to allocate wideband Category 2 C&WF pursuant to Section 36.155.

1484 Total wideband Category 2 C&WF total of rows 1480, 1481, and 1482.

1485 Total Category 2 C&WF, total of rows 1474 and 1484 including Category 2 C&WF that is directly assigned pursuant to Section 69.305.

3. Category 3 C&WF, Interexchange C&WF

1490 Total circuit miles that are used to determine the amount of Category 3 C&WF pursuant to Section 36.156(a).

1491 Circuit miles used to determine the amount of private line Category 3 C&WF pursuant to Section 36.156(a).

1492 Circuit miles used to determine the amount of directly assigned message Category 3 C&WF pursuant to Section 36.156(a).

1493 Circuit miles used to determine the amount of joint message Category 3 C&WF pursuant to Section 36.156(a).

1494 Circuit miles used to determine the amount of TWX Category 3 C&WF pursuant to Section 36.156(a).

1495 Average cost per circuit mile that is used to determine the cost of Category 3 C&WF pursuant to Section 36.156(a).

1496 Category 3 C&WF that is associated with private lines and is directly assigned pursuant to Section 36.156(b).

1497 Category 3 C&WF that is associated with message use and is directly assigned pursuant to Section 36.156(b).

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1498 Category 3 C&WF that is associated with joint message use and is allocated pursuant to Section 36.156(b).

1499 Conversation-minute-miles used to allocate joint message use Category 3 C&WF pursuant to Section 36.156(b).

1500 Category 3 C&WF that is associated with TWX usage and is allocated pursuant to Section 36.156(a).

1501 Conversation-minute-miles that are used to allocate TWX Category 3 C&WF pursuant to Section 36.156(b).

1510 Total Category 3 C&WF, total of rows 1496, 1497, 1498, and 1500 including Category 3 C&WF that is directly assigned pursuant to Section 69.305.

4. Category 4 C&WF-Host/Remote Message C&WF

1520 Category 4 C&WF used for WATS closed end access that is directly assigned pursuant to Section 36.157(a)(2).

1521 Message Category 4 C&WF that is directly assigned pursuant to Sections 36.1(c) and 36.157(a).

1522 Message Category 4 C&WF that is jointly used and is allocated pursuant to Section 36.157(a)(1).

1523 Minutes-of-use miles used to allocate message Category 4 C&WF pursuant to Section 36.157(a)(1).

1524 Total Category 4 C&WF, total of rows 1520, 1521, and 1522 including Category 4 C&WF that is directly assigned pursuant to Section 69.305.

1530 Total C&WF, total of rows 1460, 1485, 1510, and 1524.

1540 Total Telecommunications Plant, excluding amortizable assets, the total of rows 10, 12, 14, 16, 18, 20, 1004, 1410, 1440, and 1530.

III. Other Telecommunications Property

A. Tangible Assets

NOTE: Pursuant to Section 69.310(a), carriers may allocate capital leases in one of the following two ways: (1) capital leases that are associated with a plant account may be directly assigned if the plant account is directly assigned; and (2) capital leases may be allocated on the basis of Telecommunications Plant in Service.

1. Capital Leases

2000 Capital leases that are directly assigned based on analysis pursuant to Section 36.161(b).

2001 Capital leases that are associated with General Support Facilities and are allocated pursuant to Section 36.161(b) and are directly assigned pursuant to Section 69.310(a).

2002 General Support Facilities investment used to allocate associated capital leases pursuant to Section 36.161(b).

2003 Capital leases that are associated with Central Office Switching Equipment and are allocated pursuant to Section 36.161(b) and are directly assigned pursuant to Section 69.310(a).

2004 Central Office Switching Equipment investment used to allocate associated capital leases pursuant to Section 36.161(b).

2005 Capital leases that are associated with Operator Systems COE and are allocated pursuant to Section 36.161(b) and are directly assigned pursuant to Section 69.310(a).

2006 Operator Systems COE investment used to allocate associated capital leases pursuant to Section 36.161(b).

2007 Capital leases that are associated with Central Office Transmission Equipment and are allocated pursuant to Section 36.161(b) and are directly assigned pursuant to Section 69.310(a).

2008 Central Office Transmission Equipment investment used to allocate associated capital leases pursuant to Section 36.161(b).

2009 Capital leases that are associated with Information Origination/Termination Equipment and are allocated pursuant to Section 36.161(b) and are directly assigned pursuant to Section 69.310(a).

2010 Information Origination/Termination Equipment investment used to allocate associated capital leases pursuant to Section 36.161(b).

2011 Capital leases that are associated with Cable and Wire Facilities and are allocated pursuant to Section 36.161(b) and are directly assigned pursuant to Section 69.310(a).

2012 Cable and Wire Facilities investment used to allocate associated capital leases pursuant to Section 36.161(b).

2013 Capital leases that are allocated pursuant to Section 69.310(a).

2014 Telecommunications Plant in Service used to allocate capital leases pursuant to Section 69.310(a).

2020 Total Capital leases, total of rows 2000, 2001, 2003, 2005, 2007, 2009, 2011, and 2013. Exception: for Column d, include in total only rows 2000, 2001, 2003, 2005, 2007, 2009, and 2011.

2. Leasehold Improvements

2070 Leasehold improvements that are associated with General Support Facilities and are allocated pursuant to Section 36.161(c).

2071 General Support Facilities investment used to allocate associated leasehold improvements pursuant to Section 36.161(c).

2080 Leasehold improvements that are associated with Central Office Switching Equipment and are allocated pursuant to Section 36.161(c).

2081 Central Office Switching Equipment investment used to allocate associated leasehold improvements pursuant to Section 36.161(c).

2090 Leasehold improvements that are associated with Operator Systems Central Office Equipment and are allocated pursuant to Section 36.161(c).

2091 Operator Systems Central Office Equipment used to allocate associated leasehold improvements pursuant to Section 36.161(c).

2100 Leasehold improvements that are associated with Central Office Transmission Equipment and are allocated pursuant to Section 36.161(c).

2101 Central Office Transmission Equipment investment used to allocate associated leasehold improvements pursuant to Section 36.161(c).

2110 Leasehold improvements that are associated with Information Origination/Termination Equipment and are allocated pursuant to Section 36.161(c).

2111 Information Origination/Termination Equipment investment used to allocate associated leasehold improvements pursuant to Section 36.161(c).

2120 Leasehold improvements that are associated with Cable and Wire Facilities and are allocated pursuant to Section 36.161(c).

2121 Cable and Wire Facilities investment used to allocate associated leasehold improvements pursuant to Section 36.161(c).

2130 Total leasehold improvements that are allocated pursuant to Section 69.309.

2131 Combined investment used to allocate total leasehold improvements pursuant to Section 69.309.

2140 Total leasehold improvements, total of rows 2070, 2080, 2090, 2100, 2110, 2120, and 2130. Exception: for Column d, include in total only rows 2070, 2080, 2090, 2100, 2110, and 2120.

2150 Total Tangible Assets, total of rows 2020 and 2140.

B. Intangible Assets

2160 Intangible Assets that are allocated pursuant to Sections 36.162(b) and 69.309.

2161 Telecommunications Plant in Service, less Intangible Assets, used to allocate Intangible Assets pursuant to Section 36.162(b).

2162 Combined investment used to allocate Intangible Assets pursuant to Section 69.309.

C. Other Telecommunications Plant

2190 Property Held for Future Telecommunications Use that is allocated pursuant to Section 36.171(a).

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2191 Telecommunications Plant under Construction (Short Term) that is allocated pursuant to Section 36.171(a).

2192 Telecommunications Plant under Construction (Long Term) that is allocated pursuant to Section 36.171(a).

2193 Telecommunications Plant Adjustment that is allocated pursuant to Section 36.171(a).

2194 Telecommunications Plant in Service used to allocate rows 2190 through 2193 pursuant to Section 36.171(a).

2195 Reserved.

2196 Reserved.

2197 Reserved.

2198 Reserved.

2199 Reserved.

2200 Reserved.

2201 Reserved.

2202 Reserved.

2203 Total Other Telecommunications Plant, total of rows 2190, 2191, 2192 and 2193.

D. Rural Telephone Bank Stock

2210 Class B Rural Telephone Bank Stock that is allocated pursuant to Sections 36.172(c) and 69.309.

2211 Telecommunications Plant in Service used to allocate Class B Rural Telephone Bank Stock pursuant to Section 36.172(c).

2212 Combined investment used to allocate Class B Rural Telephone Bank Stock pursuant to Section 69.309.

E. Inventories and Cash Working Capital

1. Inventories

2220 Inventories that are associated with customer premises equipment and are directly assigned pursuant to Section 36.181(a).

2221 Other Inventories that are allocated pursuant to Sections 36.181(a) and 69.309.

2222 C&WF investment used to allocate other Inventories pursuant to Section 36.181(a).

2223 Combined investment used to allocate Inventories pursuant to Section 69.309.

2224 Total Inventories, total of rows 2220 and 2221.

2. Cash Working Capital

2230 Cash working capital that is directly assigned or allocated pursuant to Section 36.182(a) and is allocated pursuant to Section 69.309. See also Section 65.820(d).

2231 Combined investment used to allocate cash working capital pursuant to Section 69.309.

2240 Total Other Telecommunications Property, total of rows 22, 24, 26, 28, 93, 2150, 2160, 2203, 2210, 2224, and 2230.

F. FCC Investment Adjustment

2250 FCC Investment Adjustment is the net of the following: (1) investment not included above that the FCC has expressly allowed for ratemaking purposes; and (2) investment included above that the FCC has expressly disallowed for ratemaking purposes. See Sections 65.820 and 65.830.

2260 Total Telecommunications Property, the total of rows 1540, 2240, and row 2250.

IV. Reserves and Deferrals

A. Other Jurisdictional Assets

3000 Other Jurisdictional Assets that are directly assigned pursuant to Section 36.502(a).

B. Accumulated Depreciation

3010 Accumulated depreciation that is associated with General Support Facilities and is allocated pursuant to Sections 36.503(a), 69.2(z), and 69.301(a).

3011 General Support Facilities investment that is used to allocate associated accumulated depreciation pursuant to Sections 36.503(a), 69.2(z), and 69.301(a).

3020 Accumulated depreciation that is associated with Switching Equipment and is allocated pursuant to Sections 36.503(a) and 69.2(z), and 69.301(a).

3021 Switching Equipment investment that is used to allocate associated accumulated depreciation pursuant to Sections 36.503(a), 69.2(z), and 69.301(a).

3030 Accumulated depreciation that is associated with Operator Systems Equipment is allocated pursuant to Sections 36.503(a), 69.2(z), and 69.301(a).

3031 Operator Systems Equipment investment that is used to allocate associated accumulated depreciation pursuant to Sections 36.503(a), 69.2(z), and 69.301(a).

3040 Accumulated depreciation that is associated with Transmission Equipment and is allocated pursuant to Sections 36.503(a), 69.2(z), and 69.301(a).

3041 Transmission Equipment investment used to allocate associated accumulated depreciation pursuant to Sections 36.503(a), 69.2(z), and 69.301(a).

3050 Accumulated depreciation that is associated with Information Origination/Termination Equipment and is allocated pursuant to Sections 36.503(a), 69.2(z), and 69.301(a).

3051 Information Origination/Termination Equipment investment that is used to allocate associated accumulated depreciation pursuant to Sections 36.503(a), 69.2(z), and 69.301(a).

3060 Accumulated depreciation that is associated with Cable and Wire Facilities pursuant to Sections 36.503(a), 69.2(z), and 69.301(a).

3061 Cable and Wire Facilities investment that is used to allocate associated accumulated depreciation pursuant to Sections 36.503(a), 69.2(z), and 69.301(a).

3070 Accumulated depreciation that is associated with Property Held for Future Telecommunications Use and is allocated pursuant to Sections 36.504(a), 69.2(z), and 69.301(a).

3071 Investment in Property Held for Future Telecommunications Use that is used to allocate associated accumulated depreciation pursuant to Sections 36.504(a), 69.2(z), and 69.301(a).

3080 Total accumulated depreciation total of rows 40, 3010, 3020, 3030, 3040, 3050, 3060, and 3070.

C. Accumulated Amortization

1. Accumulated Amortization of Tangible Assets

a) Accumulated Amortization of Capital Leases

3090 Accumulated amortization of capital leases associated with General Support Facilities and which accumulated amortization is allocated pursuant to Sections 36.505(a), 69.2(z), and 69.301(a).

3091 General Support Facilities investment used to allocate accumulated amortization of associated capital leases pursuant to Sections 36.505(a), 69.2(z), and 69.301(a).

3100 Accumulated amortization of capital leases associated with Switching Equipment and which accumulated amortization is allocated pursuant to Sections 36.505(a), 69.2(z), and 69.301(a).

3101 Switching Equipment investment used to allocate accumulated amortization of associated capital leases pursuant to Sections 36.505(a), 69.2(z), and 69.301(a).

3110 Accumulated amortization of capital leases associated with Operator Systems Equipment and which accumulated amortization is allocated pursuant to Sections 36.505(a), 69.2(z), and 69.301(a).

3111 Operator Systems investment used to allocate accumulated amortization of associated capital leases pursuant to Sections 36.505(a), 69.2(z), and 69.301(a).

3120 Accumulated amortization of capital leases associated with Transmission Equipment and which accumulated amortization is allocated pursuant to Sections 36.505(a), 69.2(z), and 69.301(a).

3121 Transmission Equipment investment used to allocate accumulated amortization of associated capital leases pursuant to Sections 36.505(a), 69.2(z), and 69.301(a).

3130 Accumulated amortization of capital leases associated with Information Origination/Termination equipment and which accumulated amortization is allocated pursuant to Sections 36.505(a), 69.2(z), and 69.301(a).

3131 Information Origination/Termination equipment investment used to allocate accumulated amortization of associated capital leases pursuant to Sections 36.505(a), 69.401(f), 69.2(z), and 69.301(a).

3140 Accumulated amortization of capital leases associated with Cable and Wire Facilities and which accumulated amortization is allocated pursuant to Sections 36.505(a), 69.2(z), and 69.301(a).

3141 Cable and Wire Facilities investment used to allocate accumulated amortization of associated capital leases pursuant to Sections 36.505(a), 69.2(z), and 69.401(f).

3150 Total accumulated amortization of capital leases, total of rows 3090, 3100, 3110, 3120, 3130, and 3140. If amortization of capital leases is apportioned among the access elements based on Telecommunications Plant in Service, enter the amounts of accumulated amortization of capital leases, pursuant to Section 69.310(a), in this row.

b) Accumulated Amortization of Leasehold Improvements

3160 Accumulated amortization of leasehold improvements associated with General Support Facilities and which accumulated amortization is allocated pursuant to Sections 36.505(a), 69.2(z), and 69.301(a).

3161 General Support Facilities investment used to allocate accumulated amortization of associated leasehold improvements pursuant to Sections 36.505(a), 69.2(z), and 69.301(a).

3170 Accumulated amortization of leasehold improvements associated with Switching Equipment and which accumulated amortization is allocated pursuant to Sections 36.505(a), 69.2(z), and 69.301(a).

3171 Switching Equipment investment used to allocate accumulated amortization of associated leasehold improvements pursuant to Sections 36.505(a), 69.2(z), and 69.301(a).

3180 Accumulated amortization of leasehold improvements associated with Operator Systems Equipment and which accumulated amortization is allocated pursuant to Sections 36.505(a), 69.2(z), and 69.301(a).

3181 Operator Systems investment used to allocate accumulated amortization of associated leasehold improvements pursuant to Sections 36.505(a), 69.2(z), and 69.301(a).

3190 Accumulated amortization of leasehold improvements associated with Transmission Equipment and which accumulated amortization is allocated pursuant to Sections 36.505(a), 69.2(z), and 69.301(a).

3191 Transmission Equipment investment used to allocate accumulated amortization of associated leasehold improvements pursuant to Sections 36.505(a), 69.2(z), and 69.301(a).

3200 Accumulated amortization of leasehold improvements associated with Information Origination/Termination Equipment and which accumulated amortization is allocated pursuant to Sections 36.505(a), 69.2(z), and 69.301(a).

3201 Information Origination/Termination Equipment investment used to allocate accumulated amortization of associated leasehold improvements pursuant to Sections 36.505(a), 69.2(z), and 69.301(a).

3210 Accumulated amortization of leasehold improvements associated with Cable and Wire Facilities and which accumulated amortization is allocated pursuant to Sections 36.505(a), 69.2(z), and 69.301(a).

3211 Cable and Wire Facilities investment used to allocate accumulated amortization of associated leasehold improvements pursuant to Sections 36.505(a), 69.2(z), and 69.301(a).

3220 Total accumulated amortization of leasehold improvements, total of rows 3160, 3170, 3180, 3190, 3200, and 3210. If amortization of leasehold improvements is apportioned among the access elements based on Telecommunications Plant in Service, enter the amounts of accumulated amortization of leasehold improvements, pursuant to Section 69.310(a), in this row.

3230 Total accumulated amortization of Tangible Assets, total of rows 3150 and 3220.

2. Accumulated Amortization of Intangible Assets and Other Accumulated Amortization

3240 Accumulated amortization of Intangible Assets that is allocated pursuant to Sections 36.505(a), 69.2(z), and 69.301(a).

3241 Intangible Assets used to allocate associated accumulated amortization pursuant to Sections 36.505(a), 69.2(z), and 69.301(a).

3250 Other accumulated amortization that is allocated pursuant to Sections 36.505(a), 69.2(z), and 69.301(a).

3251 Associated investment used to allocate other accumulated amortization pursuant to Sections 36.505(a), 69.2(z), and 69.301(a).

3260 Total accumulated amortization of Intangible Assets and other accumulated amortization, total of rows 3240 and 3250.

3270 Total accumulated amortization, total of rows 42, 3230 and 3260.

D. Net Current Deferred Operating Income Taxes

3280 Net Current Deferred Operating Income Taxes that are associated with General Support Facilities and are allocated pursuant to Sections 36.506(a), 69.2(z), and 69.301(a).

3281 General Support Facilities investment used to allocate associated Net Current Deferred Operating Income Taxes pursuant to Sections 36.506(a), 69.2(z), and 69.301(a).

3290 Net Current Deferred Operating Income Taxes that are associated with Switching Equipment and are allocated pursuant to Sections 36.506(a), 69.2(z), and 69.301(a).

3291 Switching Equipment investment used to allocate associated Net Current Deferred Operating Income Taxes pursuant to Sections 36.506(a), 69.2(z), and 69.301(a).

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3300 Net Current Deferred Operating Income Taxes that are associated with Operator Systems Equipment and are allocated pursuant to Sections 36.506(a), 69.2(z), and 69.301(a).

3301 Operator Systems Equipment investment used to allocate associated Net Current Deferred Operating Income Taxes pursuant to Sections 36.506(a), 69.2(z), and 69.301(a).

3310 Net Current Deferred Operating Income Taxes that are associated with Transmission Equipment and are allocated pursuant to Sections 36.505(a), 69.2(z), and 69.301(a).

3311 Transmission Equipment investment used to allocate associated Net Current Deferred Income Taxes pursuant to Sections 36.506(a), 69.2(z), and 69.301(a).

3320 Net Current Deferred Operating Income Taxes that are associated with Information Origination/Termination Equipment and are allocated pursuant to Sections 36.506(a), 69.2(z), and 69.301(a).

3321 Information Origination/Termination Equipment investment used to allocate associated Net Current Deferred Operating Income Taxes pursuant to Sections 36.506(a), 69.2(z), and 69.301(a).

3330 Net Current Deferred Operating Income Taxes that are associated with Cable and Wire Facilities and are allocated pursuant to Sections 36.506(a), 69.2(z), and 69.301(a).

3331 Cable and Wire Facilities investment used to allocate associated Net Current Deferred Operating Income Taxes pursuant to Sections 36.506(a), 69.2(z), and 69.301(a).

3332 Other Net Deferred Operating Income Taxes not included above that are allocated pursuant to Parts 36 and 69.

3340 Total Net Current Deferred Operating Income Taxes, total of rows 44, 3280, 3290, 3300, 3310, 3320, 3330 and 3332. If net current deferred operating income taxes are apportioned among the access elements based on Telecommunications Plant in Service, enter the amounts of net current deferred operating income taxes on this row, pursuant to Parts 36.506 and 69.2(z)and 69.301(a).

E. Net Noncurrent Deferred Operating Income Taxes

3350 Net Noncurrent Deferred Operating Income Taxes that are associated with General Support Facilities and are allocated pursuant to Sections 36.506(a), 69.2(z), and 69.301(a).

3351 General Support Facilities investment used to allocate associated Net Noncurrent Deferred Operating Income Taxes pursuant to Sections 36.506(a), 69.2(z), and 69.301(a).

3360 Net Noncurrent Deferred Operating Income Taxes that are associated with Switching Equipment and are allocated pursuant to Sections 36.506(a), 69.2(z), and 69.301(a).

3361 Switching Equipment investment used to allocate associated Net Noncurrent Deferred Operating Income Taxes pursuant to Sections 36.506(a), 69.2(z), and 69.301(a).

3370 Net Noncurrent Deferred Operating Income Taxes that are associated with Operator Systems Equipment and are allocated pursuant to Sections 36.506(a), 69.2(z), and 69.301(a).

3371 Operator Systems Equipment investment used to allocate associated Net Noncurrent Deferred Operating Income Taxes pursuant to Sections 36.506(a), 69.2(z), and 69.301(a).

3380 Net Noncurrent Deferred Operating Income Taxes that are associated with Transmission Equipment and are allocated pursuant to Sections 36.506(a), 69.2(z), and 69.301(a).

3381 Transmission Equipment investment used to allocate associated Net Noncurrent Deferred Operating Income Taxes pursuant to Sections 36.506(a), 69.2(z), and 69.301(a).

3390 Net Noncurrent Deferred Operating Income Taxes that are associated with Information Origination/Termination Equipment and are allocated pursuant to Sections 36.506(a), 69.2(z), and 69.301(a).

3391 Information Origination/Termination Equipment investment used to allocate associated Net Noncurrent Deferred Operating Income Taxes pursuant to Sections 36.506(a), 69.2(z), and 69.301(a).

3400 Net Noncurrent Deferred Operating Income Taxes that are associated with Cable and Wire Facilities and are allocated pursuant to Sections 36.506(a), 69.2(z), and 69.301(a).

3401 Cable and Wire Facilities investment used to allocate associated Net Noncurrent Deferred Operating Income Taxes pursuant to Sections 36.506(a), 69.2(z), and 69.301(a).

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3402 Other Net Noncurrent Deferred Operating Income Taxes not included above that are allocated pursuant to Parts 36.506 and 69.2(z) and 69.301(a).

3410 Total Net Noncurrent Deferred Operating Income Taxes, total of rows 46, 3350, 3360, 3370, 3380, 3390, 3400 and 3402. If net noncurrent deferred operating income taxes are apportioned among the access elements based on Telecommunications Plant in Service, enter the amounts of net noncurrent deferred operating income taxes on this row, pursuant to Parts 36.506 and 69.2(z) and 69.301(a).

F. Other Jurisdictional Liabilities and Deferred Credits and Reserve Adjustments

3420 Other jurisdictional liabilities and deferred credits that are directly assigned pursuant to Section 36.507(a).

3421 FCC Reserve Adjustment which is the net of the following: (1) reserve items not included above that the Commission has expressly included for ratemaking purposes; and (2) reserve items included above that the Commission has expressly disallowed for ratemaking purposes. See Section 65.820 and 65.830.

3422 Customer Deposits are separated between state and interstate by application of the interstate plant factor or special study. The interstate plant factor is calculated by dividing interstate plant-in-service by total plant-in-service (interim measures prescribed in 3 FCC Rcd 269 (1987)). The interstate amount is apportioned among the access elements pursuant to Section 69.309.

3423 Other Deferred Credits that are separated pursuant to Parts 36 and 69.

3430 Total Reserves and Deferrals, the total of rows 3000, 3080, 3270, 3340, 3410, 3420, 3421, 3422, and 3423.

V. Operating Revenues and Certain Income Accounts

A. Operating Revenues

1. Basic Local Service Revenues

4000 Local private line revenues from broadcast program transmission audio and video services that are directly assigned pursuant to Section 36.212(a).

4001 Revenues attributable to interstate FX-like and CCSA-like services that are directly assigned pursuant to Section 36.212(b).

4002 Wideband message service and TWX revenues that are allocated pursuant to Section 36.212(c).

4003 Minutes-of-use that are used to allocate wideband message service and TWX revenues pursuant to Section 36.212(c).

4004 All Other Basic Local Services Revenues that are directly assigned pursuant to Section 36.212(d).

4005 Total Basic Local Services Revenues, total of rows 4000, 4001, 4002, and 4004, including amounts that are allocated pursuant to Part 69.

2. Network Access Service Revenues

4010 End User Revenue that is directly assigned pursuant to Section 36.213(b).

4011 Switched Access Revenue that is directly assigned pursuant to Section 36.213(c).

4012 Special Access Revenue that is directly assigned pursuant to Section 36.213(d).

4013 State Access Revenue that is directly assigned pursuant to Section 36.213(e).

4014 Total Network Access Services Revenue, total of rows 4010, 4011, 4012, and 4013, including amounts that are allocated pursuant to Part 69.

3. Long Distance Message Service Revenues

4020 Wideband message service and TWX revenues that are allocated pursuant to Section 36.214(a).

4021 Minutes-of-use that are used to allocate long distance wideband message and TWX revenues pursuant to Section 36.214(a).

4022 Long distance private line service revenues from broadcast program transmission audio and video services that are directly assigned pursuant to Section 36.214(b).

4023 All Other Long Distance Message Revenues that are directly assigned pursuant to Section 36.214(c).

4024 Total Long Distance Message Revenue, total of rows 4020, 4022, and 4023, including amounts that are allocated pursuant to Part 69.

4. Miscellaneous Revenues

4030 Directory revenues that are directly assigned pursuant to Section 36.215(a).

4031 Billing and Collecting revenues that are directly assigned pursuant to Section 36.215(b).

4032 All Other Miscellaneous Revenues that are apportioned pursuant to Section 36.215(c).

4033 Total Miscellaneous Revenues, total of rows 4030, 4031, and 4032, including amounts that are allocated pursuant to Part 69.

5. Uncollectible Revenues

4040 Uncollectible Revenues that are apportioned pursuant to Section 36.216(a), including amounts that are allocated pursuant to Part 69.

4050 Total Revenues, the total of rows 4005, 4014, 4024, and 4033, including amounts that are allocated pursuant to Part 69, less row 4040.

B. Certain Income Accounts

1. Other Operating Income and Expenses

4060 Other operating income and expenses relating to translation in foreign exchange differentials that are directly assigned pursuant to Section 36.221(a).

4061 All Other Operating Income and Expenses that are directly assigned pursuant to Section 36.221(b).

4062 All Other Operating Income and Expenses that are allocated pursuant to Section 36.221(b).

4063 Telecommunications Plant in Service that is used to allocate All Other Operating Income Expenses pursuant to Section 36.221(b).

4064 Total Other Operating Income and Expenses that are allocated pursuant to Section 69.411(a).

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4065 Combined investment used to allocate Other Operating Income and Expenses pursuant to Section 69.411(a).

4066 Total Other Operating Income and Expenses, total of rows 4060, 4061, 4062, and 4064. Exception: for Column d, include in total only rows 4060, 4061, and 4062.

2. Non-Operating Income and Expenses

4070 Allowance for funds used during construction that is allocated pursuant to Sections 36.222(c) and 69.411.

4071 Telecommunication Plant Under Construction (long term) that is used to allocate allowance for funds use during construction pursuant to Section 36.222(c).

4072 Social and community welfare contributions and fees that are allocated pursuant to Sections 36.222(c) and 69.411.

4073 Corporate Operations Expenses used to allocate social and community contributions and fees pursuant to Section 36.222(c).

4074 Reserved.

4075 Combined investment used to allocate total Non-Operating Income and Expenses pursuant to Section 69.411(a).

4076 Total Non-Operating Income and Expenses total of rows 4070 and 4072.

3. Interest and Related Items

4080 Interest paid relating to capital leases that is allocated pursuant to Section 36.223(a).

4081 Capital leases used to allocate interest paid relating to capital leases pursuant to Section 36.223(a).

4082 Reserved.

4. Extraordinary Items

4090 Extraordinary items that are apportioned pursuant to Section 36.224(a).

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5. Income Effect of Jurisdictional Ratemaking Differences.

4100 Income effect of jurisdictional ratemaking differences that is directly assigned pursuant to Section 36.225(a).

4110 Total Certain Income Accounts, total of rows 4066, 4076, 4080, 4090, and 4100.

4120 Total Operating Revenues less income effects of jurisdictional ratemaking differences, row 4050 less 4100.

VI. Operating Expenses and Taxes

A. Plant Specific Operating Expenses

1. Network Support and General Support Expenses

5000 Network Support Expenses that are allocated pursuant to Sections 36.112, 36.311(b), 69.309, and 69.401(a)(1).

5001 General Support Facilities used to allocate Network Support Expenses pursuant to Sections 36.112 and 36.311(b).

5002 Combined investment used to allocate Network Support Expenses pursuant to Sections 69.309 and 69.401(a)(1).

5010 General Support Expenses that are allocated pursuant to Sections 36.112, 36.311(b), 69.307, and 69.401(a)(2).

5011 General Support Facilities investment used to allocate General Support Expenses pursuant to Sections 36.112 and 36.311(b)

5012 General Support Facilities investment used to allocate General Support Expenses pursuant to Sections 69.307 and 69.401(a)(2).

5013 Total Network Support Expenses and General Support Expenses, total of rows 5000 and 5010.

2. Central Office Expenses

5020 Central Office Expenses that are associated with private lines and are directly assigned pursuant to Section 36.2(a).

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5021 Central Office Expenses that are associated with message use and are directly assigned pursuant to Section 36.2(a).

5022 Central Office Expenses that are allocated pursuant to Sections 36.121 and 36.321(b).

5023 Central Office Equipment investment used to allocate Central Office Expenses pursuant to Sections 36.121 and 36.321(b).

5024 Central Office Expenses that are allocated pursuant to Sections 69.306 and 69.401(b).

5025 Central Office Equipment investment used to allocate Central Office Expenses pursuant to Sections 69.306 and 69.401(b).

5026 Total Central Office Expenses, total of rows 5020, 5021, 5022, and 5024. Exception: for Column d, include in total only rows 5020, 5021, and 5022.

3. Information Origination/Termination Expenses

a) Other Information Origination/Termination Expenses

NOTE: Rows 5030 through 5033 provide Part 36 detail and rows 5040 through 5041 provide Part 69 detail.

Part 36 Detail

5030 Other Information Origination/Termination Expenses (less coinless pay telephone expenses, if substantial) that is allocated pursuant to Sections 36.142(a) and 36.331(a) and (b).

5031 Loop allocation factor (in percent) used to allocate Other Information Origination/Termination Expenses (less coinless, if substantial) pursuant to Sections 36.142(a) and 36.331(b).

5032 Other Information Origination/Termination Expenses that are associated with coinless pay telephone equipment and are allocated pursuant to Sections 36.142(a) and 36.331(b).

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5033 Exchange carrier minutes-of-use that are used to allocate Information Origination/Termination Expenses that are associated with coinless pay telephone equipment pursuant to Sections 36.142(a) and 36.331(b).

Part 69 Detail

5040 Total Other Information Origination/Termination Expenses that are allocated pursuant to Sections 69.303(a) and 69.401(c).

5041 Information Origination/Termination Equipment investment used to allocate Other Information Origination/Termination Expenses pursuant to Sections 69.303(a) and 69.401(c).

5042 Total Other Information Origination/Termination Expenses, total of rows 5030, 5032, and 5040. Exception: for Column d, include in total only rows 5030 and 5032.

b) Customer Premises Equipment Expenses

5050 Expenses associated with Customer Premises Equipment that are directly assigned pursuant to Section 36.331(c).

5060 Total Information Origination/Termination Expenses, total of rows 5042 and 5050.

4. Cable and Wire Facilities Expenses

5070 Cable and Wire Facilities Expenses that are associated with private lines and are directly assigned pursuant to Sections 36.1(c) and 36.341(b).

5071 Cable and Wire Facilities Expenses that are associated with message use and are directly assigned pursuant to Sections 36.1(c) and 36.341(b).

5072 Cable and Wire Facilities Expenses that are allocated pursuant to Sections 36.154-.157 and 36.341(b).

5073 Cable and Wire Facilities investment used to allocate Cable and Wire Facilities expenses pursuant to Sections 36.154-.157 and 36.341(b).

5074 Cable and Wire Facilities Expenses that are allocated pursuant to Sections 69.304, 69.305, and 69.401(c).

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5075 Cable and Wire Facilities investment used to allocate Cable and Wire Facilities Expenses pursuant to Sections 69.304, 69.305, and 69.401(c).

5076 Total Cable and Wire Facilities Expenses, total of rows 5070, 5071, 5072, and 5074. Exception: for Column d, include in total only rows 5070, 5071, and 5072.

5080 Total Plant Specific Expenses, total of rows 5000, 5010, 5026, 5060, and 5076.

B. Plant Non-Specific Operating Expenses

1. Other Property Plant and Equipment Expenses

6000 Other Property Plant and Equipment Expenses that are allocated pursuant to Sections 36.352(b) and 69.401(d).

6001 Telecommunications Plant in Service used to allocate Other Property Plant and Equipment Expenses pursuant to Section 36.352(b).

6002 Combined investment in Central Office Equipment, Information Origination/Termination Equipment, and Cable and Wire Facilities used to allocate Other Property Plant and Equipment Expenses pursuant to Section 69.401(d).

2. Network Operations and Access Expenses

6010 Network Operations Expenses that are allocated pursuant to Sections 36.353(a) and (b) and 69.401(d).

6011 Investment in Central Office Equipment, Information Origination/Termination Equipment, and Cable and Wire Facilities used to allocate Network Operations Expenses pursuant to Sections 36.353(b) and 69.401(d).

6012 Access Expenses that are directly assigned pursuant to Sections 36.354(a) and 69.401(e).

3. Depreciation and Amortization Expenses

a) Depreciation and Amortization Expenses of Telecommunications Plant in Service

6020 Depreciation expenses that are associated with General Support Facilities and which expenses are allocated pursuant to Sections 36.112, 36.361(b), 69.307, and 69.401(f).

6021 General Support Facilities investment used to allocate associated depreciation expenses pursuant to Sections 36.112, 36.361(b), 69.307, and 69.401(f).

6030 Depreciation expenses that are associated with Switching equipment and which expenses are allocated pursuant to Sections 36.124, 36.125, 36.361(b), 69.306(c) and (d), and 69.401(f).

6031 Switching investment that is used to allocate associated depreciation expenses pursuant to Sections 36.124, 36.125, 36.361(b), 69.306(c) and (d), and 69.401(f).

6040 Depreciation expenses that are associated with Operator Systems Equipment and which expenses are allocated pursuant to Sections 36.124, 36.361(b), 69.306(b), and 69.401(f).

6041 Operator Systems Equipment investment used to allocate associated depreciation expenses pursuant to Sections 36.124, 36.361(b), 69.306(b), and 69.401(f).

6050 Depreciation expenses that are associated with Transmission Equipment and which expenses are allocated pursuant to Sections 36.126, 36.361(b), 69.306(e), and 69.401(f).

6051 Transmission Equipment investment used to allocate associated depreciation expenses pursuant to Sections 36.126, 36.361(b), 69.306(e), and 69.401(f).

6060 Depreciation expenses that are associated with Information Origination/Termination Equipment and which expenses are allocated pursuant to Sections 36.142, 36.361(b), 69.303, and 69.401(f).

6061 Information Origination/Termination Equipment investment used to allocate associated depreciation expenses pursuant to Sections 36.142, 36.361(b), 69.303, and 69.401(f).

6070 Depreciation expenses that are associated with Cable and Wire Facilities and which expenses are allocated pursuant to Sections 36.154-.157, 36.361(b), 69.304, 69.305, and 69.401(f).

6071 Cable and Wire Facilities investment used to allocate associated depreciation expenses pursuant to Sections 36.154-.157, 36.361(b), 69.304, 69.305, and 69.401(f).

6080 Depreciation expenses of Plant Held for Future Telecommunications Use and which expenses are allocated pursuant to Sections 36.171(a), 36.361(b), 69.302(b), and 69.401(f).

6081 Investment in Property Held for Future Telecommunications Use used to allocate associated depreciation expenses pursuant to Sections 36.171(a), 36.361(b), 69.302(b), and 69.401(f).

6090 Total depreciation of Telecommunications Plant in Service, total of rows 6020, 6030, 6040, 6050, 6060, 6070, and 6080.

b) Amortization Expenses of Tangible Assets

(1) Amortization Expenses of Capital Leases

6100 Amortization expenses of capital leases associated with General Support Facilities and which expenses are allocated pursuant to Sections 36.112, 36.361(b), 69.307, and 69.401(f).

6101 General Support Facilities investment used to allocate amortization expenses of associated capital leases pursuant to Sections 36.112, 36.361(b), 69.307, and 69.401(f).

6110 Amortization expenses of capital leases that are associated with Switching Equipment and which expenses are allocated pursuant to Sections 36.124, 36.125, 36.361(b), 69.306(c) and (d), and 69.401(f).

6111 Switching Equipment investment used to allocate amortization expenses of associated capital leases pursuant to Sections 36.124, 36.125, 36.361(b), 69.306(c) and (d), and 69.401(f).

6120 Amortization expenses of capital leases that are associated with Operator Systems Equipment and which expenses are allocated pursuant to Sections 36.124, 36.361(b), 69.306(b), and 69.401(f).

6121 Operator Systems investment used to allocate amortization expenses of associated capital leases pursuant to Sections 36.124, 36.361(b), 69.306(b), and 69.401(f).

6130 Amortization expenses of capital leases that are associated with Transmission Equipment and which expenses are allocated pursuant to Sections 36.126, 36.361(b), 69.306(e), and 69.401(f).

6131 Transmission Equipment investment used to allocate amortization expenses of associated capital leases pursuant to Sections 36.126, 36.361(b), 69.306(e), and 69.401(f).

6140 Amortization expenses of capital leases that are associated with Information Origination/Termination equipment and which expenses are allocated pursuant to Sections 36.142, 36.361(b), 69.303, and 69.401(f).

6141 Information Origination/Termination equipment investment used to allocate amortization expenses of associated capital leases pursuant to Sections 36.142, 36.361(b), 69.303, and 69.401(f).

6150 Amortization expenses of capital leases that are associated with Cable and Wire Facilities and which expenses are allocated pursuant to Sections 36.154-.157, 36.361(b), 69.304, 69.305, and 69.401(f).

6151 Cable and Wire Facilities investment used to allocate amortization expenses of associated capital leases pursuant to Sections 36.154-.157, 36.361(b), 69.304, 69.305, and 69.401(f).

6160 Total amortization expenses of capital leases, total of rows 6100, 6110, 6120, 6130, 6140, and 6150. If amortization expenses of capital leases are apportioned among the access elements based on Telecommunications Plant in Service, enter the amounts of amortization expenses of capital leases, pursuant to Section 69.310(a), in this row.

(2) Amortization Expenses of Leasehold Improvements

6170 Amortization expenses of leasehold improvements associated with General Support Facilities and which expenses are allocated pursuant to Sections 36.112, 36.361(b), 69.307, and 69.401(f).

6171 General Support Facilities investment used to allocate amortization expenses of associated leasehold improvements pursuant to Sections 36.112, 36.361(b), 69.307, and 69.401(f).

6180 Amortization expenses of leasehold improvements that are associated with Switching Equipment and which expenses are allocated pursuant to Sections 36.124, 36.125, 36.361(b), 69.306(c) and (d), and 69.401(f).

6181 Switching Equipment investment used to allocate amortization expenses of associated leasehold improvements pursuant to Sections 36.124, 36.125, 36.361(b), 69.306(c) and (d), and 69.401(f).

6190 Amortization expenses of leasehold improvements associated with Operator Systems Equipment and which expenses are allocated pursuant to Sections 36.124, 36.361(b), 69.306(b), and 69.401(f).

6191 Operator Systems Equipment investment used to allocate amortization expenses of associated leasehold improvements pursuant to Sections 36.124, 36.361(b), 69.306(b), and 69.401(f).

6200 Amortization expenses of leasehold improvements that are associated with Transmission Equipment and are allocated pursuant to Sections 36.126, 36.361(b), 69.306(e), and 69.401(f).

6201 Transmission Equipment investment used to allocate amortization expenses of associated leasehold improvements pursuant to Sections 36.126, 36.361(b), 69.306(e), and 69.401(f).

6210 Amortization expenses of leasehold improvements that are associated with Information Origination/Termination Equipment and which expenses are allocated pursuant to Sections 36.142, 36.361(b), 69.303, and 69.401(f).

6211 Information Origination/Termination Equipment investment used to allocate amortization expenses of associated leasehold improvements pursuant to Sections 36.142, 36.361(b), 69.303, and 69.401(f).

6220 Amortization expenses of leasehold improvements that are associated with Cable and Wire Facilities and which expenses are allocated pursuant to Sections 36.154-.157, 36.361(b), 69.304, 69.305, and 69.401(f).

6221 Cable and Wire Facilities investment used to allocate amortization expenses of associated leasehold improvements pursuant to Sections 36.154-.157, 36.361(b), 69.304, 69.305, and 69.401(f).

6230 Total amortization expenses of leasehold improvements, total of rows 6170, 6180, 6190, 6200, 6210, and 6220. If amortization expenses of leasehold improvements are apportioned among the access elements based on Telecommunications Plant in Service, enter the amounts of amortization expenses of leasehold improvements, pursuant to Section 69.310(a), on this row.

6240 Total amortization expenses of Tangible Assets, total of rows 6160 and 6230.

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(3) Other Depreciation and Amortization Expenses

6250 Amortization expenses of Intangible Assets that are allocated pursuant to Sections 36.361 and 69.401(f).

6251 Intangible Assets used to allocate amortization expenses of Intangible Assets pursuant to Sections 36.361 and 69.401(f).

6252 Other depreciation and amortization expenses that are allocated pursuant to Sections 36.361 and 69.401(f).

6253 Associated investment used to allocate other depreciation and amortization expenses pursuant to Sections 36.361 and 69.401(f).

6254 Total other depreciation and amortization expenses, total of rows 6250 and 6252.

6260 Total depreciation and amortization expenses, total of rows 6090, 6240, and 6254.

6270 Total Plant Non-Specific, total of rows 6000, 6009, 6010, 6012, and 6260.

C. Customer Operations Expenses

1. Marketing Expenses

6998 Marketing Expenses that are directly associated with sales agency agreements and are directly assigned pursuant to the Commission's Memorandum Opinion and Order, FCC 85-582, released November 15, 1985.

6999 Marketing Expenses that are allocated pursuant to Section 36.372.

7000 Total Marketing Expenses, total of rows 6998 and 6999, including amounts that are allocated pursuant to Sections 69.309 and 69.403.

7001 Current billings analysis used to allocate Marketing Expenses pursuant to Section 36.372.

7002 Combined investment used to allocate Marketing Expenses pursuant to Sections 69.309 and 69.403.

2. Services Expenses Rev.

a) Telephone Operator Services Expenses

NOTE: Rows 7010 through 7041 provide Part 36 detail and rows 7050 through 7052 provide Part 69 detail.

Part 36 Detail

7010 Call completion services expenses that are allocated pursuant to Section 36.374(b).

7011 Weighted standard work seconds (adjusted to accommodate direct assignment entered in row 7009) used to allocate call completion services pursuant to Section 36.374(b).

7020 Intercept services expenses that are allocated pursuant to Section 36.374(b).

7021 Weighted standard work seconds used to allocate intercept services expenses pursuant to Section 36.374(b).

7030 Directory assistance expenses that are allocated pursuant to Section 36.374(b).

7031 Weighted standard work seconds used to allocate directory assistance expenses pursuant to Section 36.374(b).

7040 Other Telephone Operator Expenses that are allocated pursuant to Section 36.374(b).

7041 Weighted standard work seconds (adjusted to accommodate direct assignmemt entered in row 7039) used to allocate Other Telephone Operator Expenses pursuant to Section 36.374(b).

Part 69 Detail

7050 Telephone Operator Services Expenses that are directly assigned pursuant to Section 69.404.

7051 Telephone Operator Services Expenses that are allocated pursuant to Section 69.404.

7052 Weighted standard work seconds used to allocate Telephone Operator Services Expenses pursuant to Section 69.404.

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7060 Total Telephone Operator Services Expenses, total of rows 7009, 7010, 7020, 7030, 7039, 7040, 7050, and 7051. Exception: for Column d, include in total only rows 7009, 7010, 7020, 7030, 7039 and 7040.

b) Published Directory Listing Expenses

7070 Classified directory expenses that are directly assigned pursuant to Section 36.375(b)(1).

7071 TWX directory expenses that are allocated pursuant to Section 36.375(b)(2).

7072 TWX minutes-of-use used to allocate TWX directory expenses pursuant to Section 36.375(b)(2).

7073 Expense of alphabetical and street address directories and traffic information records that are allocated pursuant to Sections 36.375(b)(3).

7074 Subscriber line minutes-of-use used to allocate the expense of alphabetical and street address directories and traffic information records pursuant to Section 36.375(b)(3).

7075 Expenses associated with foreign directories that are directly assigned pursuant to Section 36.375(b)(4).

7076 Total Published Directory Listing Expenses, total of rows 7070, 7071, 7073, and 7075 and assigned pursuant to Section 69.405.

c) All Other Services Expenses

(1) Category 1 - Local Business Office Expense

NOTE: Rows 7080 through 7201 provide Part 36 detail and rows 7202 through 7214 provide Part 69 detail.

Part 36 Detail

(a) End User Service Order Processing Expenses

7080 Total weighted actual contacts used to determine the amount of end user service order processing expenses pursuant to Section 36.377(a)(1).

7081 Weighted actual contacts used to determine the amount of local end user service order processing expenses pursuant to Section 36.377(a)(1).

7082 Weighted actual contacts used to determine the amount of presubscription end user service order processing expenses pursuant to Section 36.377(a)(1).

7083 Weighted actual contacts used to determine the amount of directory advertising end user service order processing expenses pursuant to Section 36.377(a)(1).

7084 Weighted actual contacts used to determine the amount of state private line and special access end user service order processing expenses pursuant to Section 36.377(a)(1).

7085 Weighted actual contacts used to determine the amount of interstate private line and special access end user service order processing expenses pursuant to Section 36.377(a)(1).

7086 Weighted actual contacts used to determine the amount of state message toll, including WATS, end user service order processing expenses pursuant to Section 36.377(a)(1).

7087 Weighted actual contacts used to determine the amount of interstate message toll, including WATS, end user service order processing expenses pursuant to Section 36.377(a)(1).

7088 Weighted actual contacts used to determine the amount of TWX end user service order processing expenses pursuant to Section 36.377(a)(1).

7089 Local end user service order processing expenses that are directly assigned pursuant to Section 36.377(a)(1)(i).

7090 Presubscription end user service order processing expenses that are directly assigned pursuant to Section 36.377(a)(1)(ii).

7091 Directory advertising end user service order expenses that are directly assigned pursuant to Section 36.377(a)(1)(iii).

7092 Private line and special access end user service order processing expenses that are directly assigned pursuant to Sections 36.377(a)(1)(iv) and (v).

7093 Other message toll, including WATS, end user service order processing expenses that are directly assigned pursuant to Sections 36.377(a)(1)(vi) and (vii).

7094 TWX end user service order processing expenses that are allocated pursuant to Section 36.377(a)(1)(viii).

7095 Billed TWX revenues that are used to allocate TWX end user service order processing expenses pursuant to Section 36.377(a)(1)(viii).

7096 Total end user service order processing expenses, total of rows 7089, 7090, 7091, 7092, 7093, and 7094.

(b) End User Payment and Collection Expenses

7100 Total billed revenues used to determine the amount of end user payment and collection expenses pursuant to Section 36.377(a)(2).

7101 Billed revenues used to determine the amount of state private line and special access end user payment and collection expenses pursuant to Section 36.377(a)(2).

7102 Billed revenues used to determine the amount of interstate private line and special access end user payment and collection expenses pursuant to Section 36.377(a)(2).

7103 Billed revenues used to determine the amount of state message toll, including WATS, end user payment and collection expenses pursuant to Section 36.377(a)(2).

7104 Billed revenues used to determine the amount of interstate message toll, including WATS and the interstate subscriber line charge, end user payment and collection expenses pursuant to Section 36.377(a)(2).

7105 Billed revenues used to determine the amount of local, including directory advertising, end user payment and collection expenses pursuant to Section 36.377(a)(2).

7106 Billed revenues used to determine the amount of TWX end user payment and collection expenses pursuant to Section 36.377(a)(2).

7107 Private line and special access end user payment and collection expenses that are directly assigned pursuant to Sections 36.377(a)(2)(i) and (ii).

7108 Message toll, including WATS and the interstate subscriber line charge, end user payment and collection expenses that are directly assigned pursuant to Sections 36.377(a)(2)(iii) and (iv).

7109 Local, including directory advertising, end user payment and collection expenses that are directly assigned pursuant to Section 36.377(a)(2)(v).

7110 TWX end user payment and collection expenses that are allocated pursuant to Section 36.377(a)(2)(vi).

7111 Billed TWX revenues used to allocate TWX end user payment and collection expenses pursuant to Section 36.377(a)(2)(vi).

7112 Total end user payment and collection expenses, total of rows 7107, 7108, 7109, and 7110.

(c) End User Billing Inquiry Expenses

7120 Total weighted actual contacts used to determine the amount of end user billing inquiry expenses pursuant to Section 36.377(a)(3).

7121 Weighted actual contacts used to determine the amount of state private line and special access end user billing inquiry expenses pursuant to Section 36.377(a)(3).

7122 Weighted actual contacts used to determine the amount of interstate private line and special access end user billing inquiry expenses pursuant to Section 36.377(a)(3).

7123 Weighted actual contacts used to determine the amount of state message toll, including WATS, end user billing inquiry expenses pursuant to Section 36.377(a)(3).

7124 Weighted actual contacts used to determine the amount of interstate message toll, including WATS and the interstate subscriber line charge, end user billing inquiry expenses pursuant to Section 36.377(a)(3).

7125 Weighted actual contacts used to determine the amount of TWX end user billing inquiry expenses pursuant to Section 36.377(a)(3).

7126 Weighted actual contacts used to determine the amount of other end user billing inquiry expenses pursuant to Section 36.377(a)(3).

7127 Private line and special access end user billing inquiry expenses that are directly assigned pursuant to Sections 36.377(a)(3)(i) and (ii).

7128 Message toll, including WATS and the interstate subscriber line charge, end user billing inquiry expenses that are directly assigned pursuant to Sections 36.377(a)(3)(iii) and (iv).

7129 TWX billing inquiry expenses that are allocated pursuant to Section 36.377(a)(3)(v).

7130 TWX billed revenues used to allocate TWX billing inquiry expenses pursuant to Section 36.377(a)(3)(v).

7131 Other billing inquiry expenses that are directly assigned pursuant to Section 36.377(a)(3)(vi).

7132 Total end user billing inquiry expenses, total of rows 7127, 7128, 7129, and 7131.

(d) Interexchange Carrier Service Order Processing Expenses

7140 Total weighted actual contacts used to determine the amount of interexchange carrier service order processing expenses pursuant to Section 36.377(a)(4).

7141 Weighted actual contacts used to determine the amount of state private line and special access interexchange carrier service order processing expenses pursuant to Section 36.377(a)(4).

7142 Weighted actual contacts used to determine the amount of interstate private line and special access interexchange carrier service order processing expenses pursuant to Section 36.377(a)(4).

7143 Weighted actual contacts used to determine the amount of state switched access and message toll, including WATS, interexchange carrier service order processing expenses pursuant to Section 36.377(a)(4).

7144 Weighted actual contacts used to determine the amount of interstate switched access and message toll, including WATS, interexchange carrier service order processing expenses pursuant to Section 36.377(a)(4).

7145 Weighted actual contacts used to determine the amount of state billing and collection interexchange carrier service order processing expenses pursuant to Section 36.377(a)(4).

7146 Weighted actual contacts used to determine the amount of interstate billing and collection interexchange carrier service order processing expenses pursuant to Section 36.377(a)(4).

7147 Private line and special access interexchange carrier service order processing expenses that are directly assigned pursuant to Sections 36.377(a)(4)(i) and (ii).

7148 Switched access and message toll, including WATS, interexchange carrier service order processing expenses that are directly assigned pursuant to Sections 36.377(a)(4)(iii) and (iv).

7149 Billing and collection interexchange carrier service order processing expenses that are directly assigned pursuant to Sections 36.377(a)(4)(v) and (vi).

7150 Total interexchange carrier service order processing expenses, total of rows 7147, 7148, and 7149.

(e) Interexchange Carrier Payment and Collection Expenses

7160 Total billed revenues used to determine the amount of interexchange carrier payment and collection expenses pursuant to Section 36.377(a)(5).

7161 Billed revenues used to determine the amount of state special access and private line interexchange carrier payment and collection expenses pursuant to Section 37.377(a)(5).

7162 Billed revenues used to determine the amount of interstate special access and private line interexchange carrier payment and collection expenses pursuant to Section 36.377(a)(5).

7163 Billed revenues used to determine the amount of state switched access and message toll, including WATS, interexchange carrier payment and collection expenses pursuant to Section 36.377(a)(5).

7164 Billed revenues used to determine the amount of interstate switched access and message toll, including WATS, interexchange carrier payment and collection expenses pursuant to Section 36.377(a)(5).

7165 Billed revenues used to determine the amount of state billing and collection interexchange carrier payment and collection expenses pursuant to Section 36.377 (a)(5).

7166 Billed revenues used to determine the amount of interstate billing and collection interexchange carrier payment and collection expenses pursuant to Section 36.377(a)(5).

7167 Private line and special access interexchange carrier payment and collection expenses that are directly assigned pursuant to Sections 36.377(a)(5)(i) and (ii).

7168 Switched access and message toll, including WATS, interexchange carrier payment and collection expenses that are directly assigned pursuant to Sections 36.377(a)(5)(iii) and (iv).

7169 Billing and collection interexchange carrier payment and collection expenses that are directly assigned pursuant to Sections 36.377(a)(5)(v) and (vi).

7170 Total interexchange carrier payment and collection expenses, total of rows 7167, 7168, and 7169.

(f) Interexchange Carrier Billing Inquiry Expenses

7180 Total weighted actual contacts used to determine the amount of interexchange carrier billing inquiry expenses pursuant to Section 36.377(a)(6).

7181 Weighted actual contacts used to determined the amount of state special access and private line interexchange carrier billing inquiry expenses pursuant to Section 36.377(a)(6).

7182 Weighted actual contacts used to determined the amount of interstate special access and private line interexchange carrier billing inquiry expenses pursuant to Section 36.377(a)(6).

7183 Weighted actual contacts used to determined the amount of state switched access and message toll, including WATS, interexchange carrier billing inquiry expenses pursuant to Section 36.377(a)(6).

7184 Weighted actual contacts used to determine the amount of interstate switched access and message toll, including WATS, interexchange carrier billing inquiry expenses pursuant to Section 36.377(a)(6).

7185 Weighted actual contacts used to determine the amount of state billing and collection interexchange carrier billing inquiry expenses pursuant to Section 36.377(a)(6).

7186 Weighted actual contacts used to determine the amount of interstate billing and collection interexchange carrier billing inquiry expenses pursuant to Section 36.377(a)(6).

7187 Private line and special access interexchange carrier billing inquiry expenses that are directly assigned pursuant to Sections 36.377(a)(6)(i) and (ii).

7188 Switched access and message toll, including WATS, interexchange carrier billing inquiry expenses that are directly assigned pursuant to Sections 36.377(a)(6)(iii) and (iv).

7189 Billing and collection interexchange carrier billing inquiry expenses that are directly assigned pursuant to Sections 36.377(a)(6)(v) and (vi).

7190 Total interexchange carrier billing inquiry expenses, total of rows 7187, 7188, and 7189.

(g) Coin Collection and Administration Expenses

7200 Coin collection and administration expenses that are allocated pursuant to Section 36.377(a)(7).

7201 Revenues deposited that are used to allocate coin collection and administration expenses pursuant to Section 36.377(a)(7).

Part 69 Detail

7202 End user service order processing, payment and collection, and billing inquiry expenses attributable to the company's own private line services that are directly assigned pursuant to Section 69.406(a)(2).

7203 End user service order processing, payment and collection, and billing inquiry expenses attributable to the company's own message toll services that are directly assigned pursuant to Section 69.406(a)(4).

7204 End user service order processing, payment and collection, and billing inquiry expenses attributable to interexchange carriers' private line services that are directly assigned pursuant to Section 69.406(a)(3).

7205 End user service order processing, payment and collection, and billing inquiry expenses attributable to interexchange carriers' message toll services that are directly assigned pursuant to Section 69.406(a)(4).

7206 End user payment and collection and billing inquiry expenses attributable to end user common line access (Subscriber Line Charge) billing that is directly assigned to pursuant to Section 69.406(a)(4).

7207 End user service order processing expenses attributable to presubscription that are allocated pursuant to Section 69.406(a)(1).

7208 Combined investment used to allocate end user service order processing expenses attributable to presubscription pursuant to Sections 69.309 and 69.406(a)(1).

7209 End user service order processing, payment and collection, and billing inquiry expenses attributable to TWX that are directly assigned to pursuant to Section 69.406(a)(5).

7210 Interexchange carrier service order processing, payment and collection, and billing inquiry expenses attributable to private line services that are directly assigned pursuant to Section 69.406(a)(6).

7211 Interexchange carrier service order processing, payment and collection, and billing inquiry expenses attributable to switched access and message toll services that are allocated pursuant to Section 69.406(a)(7).

7212 Combined investment used to allocate interexchange carrier service order processing, payment and collection, and billing inquiry expenses attributable to switched access and message toll services pursuant to Sections 69.309 and 69.406(a)(7).

7213 Interexchange carrier service order processing, payment and collection, and billing inquiry expenses attributable to billing and collection services that are directly assigned pursuant to Section 69.406(a)(8).

7214 Coin collection and administration expenses that are directly assigned pursuant to Section 69.406(a)(9).

7220 Total Category 1, Local Business Office Expenses, total of rows 7096, 7112, 7132, 7150, 7170, 7190, 7200, 7202, 7203, 7204, 7205, 7206, 7207, 7209, 7210, 7211, 7213, and 7214. Exception: for Column d, include in total only rows 7096, 7112, 7132, 7150, 7170, 7190, and 7200.

(2) Category 2 - Customer Services Expenses (Revenue Accounting)

NOTE: Rows 7230 through 7270 provide Part 36 detail and rows 7280 through 7283 provide Part 69 detail.

Part 36 Detail

(a) Message Processing Expenses

7230 Total messages that are used to determine the amount of message processing expenses pursuant to Section 36.379(a).

7231 Toll messages that are used to determine the amount of toll ticket processing expenses pursuant to Section 36.379(a).

7232 Local messages that are used to determine the amount of local message processing expenses pursuant to Section 36.379(a).

7233 Toll ticket processing expenses that are allocated pursuant to Section 36.379(b).

7234 Toll messages used to allocate toll ticket processing expenses pursuant to Section 36.379(b).

7235 Local message processing expenses that are directly assigned pursuant to Section 36.379(b).

7236 Total message processing expenses, total of rows 7233 and 7235.

(b) Other Billing and Collecting Expenses

7240 Total current users used to determine the allocation of Other Billing and Collecting Expenses pursuant to Section 36.380(b). This amount is equal to the total of rows 7241, 7242, 7243, 7244 and 7247.

7241 Message toll users equal the number of current message toll telephone and telegram users (excluding semi-public when tolls are not amortized on the bill) used to determine the allocation of Other Billing and Collecting Expenses pursuant to Section 36.380(b).

7242 Number of current private line service users used to determine the allocation of Other Billing and Collecting Expenses pursuant to Section 36.380(b).

7243 Number of current TWX users used to determine the allocation of Other Billing and Collecting Expenses pursuant to Section 36.380(b).

7244 Number of current exchange and semi-public telephone users used to determine the allocation of Other Billing and Collecting Expenses pursuant to Section 36.380(b).

7245 Reserved.

7246 Reserved.

7247 Number of current directory advertising users used to determine the allocation of Other Billing and Collecting Expenses pursuant to Section 36.380(b).

7248 Reserved.

7250 Reserved.

7251 MTS expenses are Other Billing and Collecting Expenses allocated to message toll telephone and telegram use pursuant to Section 36.380(b)(1).

7252 MTS messages equal the number of non-affiliated company telegram message, state message toll telephone messages and interstate message toll messages used to apportion message toll telephone and telegram expenses between the operations pursuant to Section 36.380(b)(1).

7253 TWX expenses are Other Billing and Collecting Expenses allocated to TWX use pursuant to Section 36.380(b)(2).

7254 Number of TWX connections used to apportion TWX expenses between the operations pursuant to Section 36.380(b)(2).

7255 Exchange, semi-public telephone and directory advertising expenses are Other Billing and Collecting Expenses allocated to exchange, including semi-public, use and directory advertising use pursuant to Section 36.380(b)(3).

7256 Private line expenses are Other Billing and Collecting Expenses allocated to private line services use pursuant to Section 36.380(b)(4).

7257 Private line accounts equal the number of intrastate and interstate private line service accounts used to apportion private line services expenses pursuant to Section 36.380(b)(4).

7258 End user common line access billing expenses are Other Billing and Collecting Expenses assigned or apportioned to end user activity pursuant to Section 36.380(c).

7259 Total Other Billing and Collecting Expenses, the total of rows 7251, 7253, 7255, 7256 and 7258.

7260 Reserved.

(c) Carrier Access Charge Billing and Collecting Expenses

7270 Carrier access charge billing and collecting expenses that are allocated pursuant to Section 36.381(b).

Part 69 Detail

7280 Revenue Accounting Expenses that are attributable to End User Common Line access (Subscriber Line Charge) billings that are directly assigned pursuant to Section 69.407(a).

7281 Revenue Accounting Expenses that are attributable to a carrier's carrier access billing and collecting expenses and are allocated pursuant to Section 69.407(b).

7282 Investment in COE, IOT, and C&WF used to allocate Revenue Accounting Expenses that are attributed to the carrier's carrier access billing and collecting expenses (except that no such Revenue Accounting Expenses are allocated to the Common Line element) pursuant to Section 69.407(b).

7283 All Other Revenue Accounting Expenses that are directly assigned pursuant to Section 69.407(c).

7290 Total Category 2, Customer Services (Revenue Accounting), total of rows 7236, 7259, 7270, 7280, 7281, and 7283. Exception: for Column d, include in total only rows 7236, 7259, and 7270.

(3) Category 3 - All Other Customer Services Expenses

7300 All Other Customer Services expenses that are allocated pursuant to Sections 36.382(a) and 69.408(a).

7301 Total Categories 1 and 2 Customer Services Expenses that are used to allocate Category 3 pursuant to Section 36.381(a).

7302 Combined expenses that are used to allocate All Other Customer Services Expenses pursuant to Section 69.408(a).

7310 Total Other Customer Services Expenses, total of rows 7220, 7290, and 7300.

7320 Total Customer Operations Expenses, total of rows 7000, 7060, 7076, 7220, 7290, and 7300.

D. Corporate Operations Expenses

7330 Extended Area Services settlements that are directly assigned pursuant to Section 36.392(b).

7331 All Other Corporate Operations Expenses that are allocated pursuant to Section 36.392(c).

7332 Part 36 Big Three Expenses that are used to allocate All Other Corporate Operations Expenses pursuant to Section 36.392(c).

7333 Part 69 Big Three Expenses used to allocate All Other Corporate Operations Expenses pursuant to Section 69.409(a).

7334 Total Corporate Operations Expenses, total of rows 7330 and 7331.

E. FCC Expense Adjustment

7350 FCC expense adjustment is the net of the following: (1) expenses not included above that the FCC has expressly allowed for ratemaking purposes; and (2) expenses included above that the FCC has expressly disallowed for ratemaking purposes. See Sections 65.450, 65.820, and 65.830.

7351 Total Operating Expenses, the total of rows 84, 92, 5080, 6270, 7320, 7334, and row 7350. NOTE: Carriers must include amounts on row 84 and 92.

F. Operating Taxes

1. State and Local Taxes

8000 State and local income taxes and local gross receipts taxes that are allocated pursuant to Sections 36.412(b) and 69.402(a).

8001 Approximate net taxable income used to allocate state and local taxes pursuant to Sections 36.412(b) and 69.402(a).

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8002 Other state and local taxes that are directly assigned pursuant to Section 36.412(c).

8003 All other state and local taxes that are allocated pursuant to Section 36.412(c)

8004 Telecommunications Plant in Service used to allocate all other state and local taxes pursuant to Section 36.412(c).

8005 Total other state and local taxes that are allocated pursuant to Section 69.402(b). NOTE: Column (d) is the total of rows 8002 and 8003.

8006 Combined investment used to allocate other state and local taxes pursuant to Section 69.402(b).

8007 Total state and local taxes, total of rows 8000, 8002, 8003, and 8005. Exception: for Column d, include in total only rows 8000, 8002, and 8003.

2. Federal Income Tax

a) Federal Income Tax Related Items

8010 Fixed charges that are subtracted in the calculation of approximate net taxable income pursuant to Sections 36.223(a), 36.412(b)(4) and 69.411 and which include amounts in row 4080.

8011 Net investment used to allocate fixed charges pursuant to Section 36.412(b)(4).

8012 Combined investment used to allocate fixed charges pursuant to Section 69.411(a).

8013 Internal Revenue Service Income adjustment that is the difference between taxable income reported for Internal Revenue Service purposes and taxable income reported in accordance with Part 32.

8014 FCC taxable income adjustment that is the net of the following: (1) taxable income not included above that the FCC has expressly allowed for ratemaking purposes; and (2) taxable income included above that the FCC has expressly disallowed for ratemaking purposes pursuant to Part 65.

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8015 Investment Tax Credit amortization that is the net amortization associated with Account 7210, Operating Investment Tax Credits. See Section 32.7210.

8016 Telecommunications Plant in Service that is used to allocate Investment Tax Credit amortization pursuant to Section 36.412(c).

8017 Combined investment that is used to allocate Investment Tax Credit amortization pursuant to Section 69.411(a).

8018 FCC Investment Tax Credit which is the net of the following: (1) Investment Tax Credit not included above that the FCC has expressly allowed for ratemaking purposes, and (2) the investment Tax Credit included above that FCC has expressly disallowed for ratemaking purposes pursuant to Part 65.

b) Federal Income Tax

8020 Federal income tax that is allocated pursuant to Section 36.412(b). This amount equals (row 8021 times the statutory Federal Income Tax Rate) less rows 8015 and 8018.

8021 Approximate net taxable income used to allocate Federal Income Tax pursuant to Sections 36.412(b) and 69.402(a). This amount equals the sum of rows 4066, 4120, 8013 and 8014 less rows 4072, 7351, 8007 and 8010.

8030 Total Operating Taxes, total of rows 8007 and 8020.

VII. Return Data

8040 Average net investment is calculated by dividing the sum of the average net investment for each month in the reporting period by the number of months in the reporting period.

8041 Net Return equals the sum of rows 4066, 4090, and 4120 less rows 4072, 7351 and 8030

8042 Rate of Return (in percent) is calculated by dividing Net Return by Average Net Investment (row 8041 divided by row 8040).

8043 FCC Refund which is developed in accordance with CC Docket No. 84-800, Phase I.

8044 Net Return including FCC Refund, the total of rows 8041 and 8043.

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8045 Rate of Return including FCC Refund (in percent) is calculated by dividing Net Return including FCC Refund by Average Net Investment (row 8044 divided by row 8040).

VIII. Other Data

9000 Carrier Common Line transitional support which is the amount received (positive amount) or disbursed (negative amount) pursuant to Section 69.612(b).

9001 Carrier Common Line long term support which is the amount of long term support submitted to NECA pursuant to Section 69 612(a). This item is a negative amount.

9002 Universal Service Fund expense allocation which is calculated pursuant to Sections 36.601-.641. Carriers with higher than average non-traffic-sensitive loop costs must report their interstate allocation, as reported in the June submission to NECA for this reporting period in this row.

9003 Study area unseparated loop cost which is used to determine the Universal Service Fund expense allocation reported on row 9002 and is calculated pursuant to Section 36.621(a).

9004 Study area working loops that are used to calculate the Universal Service Fund expense allocation reported on row 9002 pursuant to Section 36.611(a)(8).

9005 Study area average unseparated loop cost per working loop which is the study area unseparated loop cost (row 9003) divided by the number of study area working loops (row 9004) pursuant to Section 36.622(b).

9006 Lifeline Connection Assistance expense allocation which is calculated pursuant to Sections 36.701-.741.

9007 Number of households in the study area receiving Lifeline Connection Assistance pursuant to Section 36.711(b).

9008 Average discount on commencement of service charges per household pursuant to Section 36.711(a)(1).

9009 Average deferred charges per household for the commencement of service for which the company charges no interest pursuant to Section 36.711(a)(2).

9010 Total billable access lines in the study area include the following:

(1) the number of single line business customer premises terminations (CPTs) subject to the single line business interstate subscriber line charge, excluding company official, mobile radiotelephone and public telephone. CPTs are commonly referred to as "main station equivalents" or "billable units". A CPT is a line termination at the customer premises, rather than at the central office; plus

(2) the number of residence lifeline CPTs for which the interstate subscriber line charge is reduced or waived. The decision to implement a lifeline plan is left to the individual state commission; plus

(3) the number of residence non-lifeline CPTs subject to the residence interstate subscriber line charge; plus

(4) the number of multiline business CPTs subject to the multiline business interstate subscriber line charge including, multiline semi-public lines, PBX trunks, Centrex CU trunks, hotel/motel LD trunks and Centrex CO lines ordered after July 27, 1983; plus

(5) the number of Centrex CO and CTX CO-like lines in service or ordered as of July 27, 1983; plus

(6) the number of special access lines subject to a $25 surcharge, including WATS lines, as appropriate, after June 1, 1986.

A. Introduction

This document contains the detailed automated data processing (ADP) specifications for the automated report to be filed as FCC Report 43-04, the ARMIS Access Report.

B. General Format and Media

1. All data should be submitted on 5.25-inch double-sided double-density IBM-PC compatible diskettes.

2. All files should be coded in ASCII.

3. See sections B and C on pages 1 and 2 of the accompanying Reporting Procedures for a discussion of the Confidential Version, the Public Version, and the Unrestricted Version of this report and for a definition and discussion of data items that are "Not Available" or are "Withheld."

4. The file name for each file has six components:

   a. the four letter COSA code (CO = Company, SA = Study Area, see attached COSA Code Table for a list of companies and their respective COSAs).
   b. the last two digits of the year which is covered by the data.
   c. the letters "AC".
   d. a decimal point.
   e. the letter "P", "C", or "U" to indicate whether this is the Public version, the Confidential version, or the only (Unrestricted) version since all data is non-confidential.
   f. two digits (zero filled) for the submission number. Submission 0 is for test data purposes only. Submission 1 is for the first submission of a year's data. Higher numbers (2, 3, etc.) would be used if needed for successive revisions to correct that year's submission.

   For example, the file name for the Unrestricted Version of the initial Access Report data file to be submitted by Illinois Bell to cover the calendar year 1990, would be LBIL90AC.U01:

LBIL	COSA for Illinois Bell
90	Data for calendar year 1990
AC	Access Report data file
.	decimal point
U	Unrestricted version
01	First submission of this year's data

5. A separate file should be prepared for each report. More than one file can be placed on the same diskette, as long as they cover the same period, version, and submission number.

C. Data Entry Conventions

1. If an entry is to be a subtraction, indicate so by placing a minus sign in the column immediately preceding the numeric data, e.g., use -4, NOT - 4 or (4).

2. Begin each data record in column 1 and make each record the proper length as specified in the accompanying record layouts. Commas are used as delimiters between fields. All numeric fields are right justified and space filled, e.g. use ____123, NOT 123____. All non-numeric fields are enclosed in double quotation marks and are left justified and space filled within these quotation marks, e.g. use "John Doe ".

3. Give each record a unique record number, beginning with 1001 and incrementing by one, with no numbers skipped.

4. Do NOT include "$" or "%" or embedded commas in any numeric data field. Use the decimal point only in the following instances: row number fields will include a decimal point and one decimal place, rate of return data fields will include a decimal point and two decimal places, and all other percentage fields will include a decimal point and four decimal places. (See paragraph D4 below.)

5. In any numeric data field designated by N/A as specified in the accompanying Report Definition - Form, enter -99999. If a "Public Version" diskette is filed, enter -88888 in any numeric data field for which data is "Withheld". DO NOT override N/As. If a reporting carrier wishes to apply data to a field containing an N/A, the carrier should enter as a footnote to the field, the amount(s) and an explanation. All other fields must be populated. If there are no data applicable to an open field, enter zero.

D. Rounding Conventions

1. As specified in the accompanying Report Definition, all monetary figures must be rounded to the nearest thousand dollars with the exception of rows 1273, 1335, 1453, 1495, 9005, 9007, 9008 and 9009. The dollar amounts in these rows must be rounded to the nearest penny and such amounts must be entered in dollars and cents (e.g., if cost per loop is $6.45 it must be entered as 6.45). Do not round row 9007.

2. All amounts of minutes or seconds must be rounded to the nearest million, except as noted in number 5, below.

3. All conversation-minute-miles must be rounded to the nearest million. All circuit miles must be rounded to the nearest thousand.

4. All rate of return percentage amounts must be entered in percent and must be rounded to 2 decimal places (e.g., 12 2/3 percent should be entered as 12.67). All other percentage amounts must be entered in percent and must be rounded to 4 decimal places (e.g., 12 2/3 percent must be entered as 12.6667).

5. All seconds, including weighted standard work seconds, must be rounded to thousands. Toll minutes of use on row 1127 must be rounded to thousands.

6. All weighted actual contacts and users must be displayed in whole numbers.

7. All amounts for loops and terminations must be displayed in whole numbers.

8. All other amounts must be rounded to the nearest thousand.

E. Data Record Descriptions

The seven data record types are described below. See pages 5 through 16 for record layouts. The file will consist of one Type H1 record, followed by one Type L1 record, followed by 731 Type K2 records, followed by one or more Type C4 records, followed by zero or more Type F3 records, followed by zero or more Type E4 records, followed by one Type T1 record.

Record Type H1	Header Record	One Type H1 record per file. The first record of each file. Contains identifying data. See page 5 for record layout.
Record Type L1	Label Record	One Type L1 record per file. The second record of each file. Contains report number, carrier name, study area name, etc. See page 6 for record layout.
Record Type K2	Separations and Access Data Record	731 Type K2 records per file. One record for each of the 731 rows shown on the Form section of the accompanying Report Definition. Each record contains data values for that particular row broken out by the cost categories, access elements, and summary columns described in the Column Descriptions section of the accompanying Report Definition. See pages 7, 8 & 9 for record layout.

Record Type C4	Confidential Treatment Record	One or more Type C4 records per file. Contains information to identify the data for which the carrier is seeking confidential treatment or to verify that the carrier is not seeking any confidential treatment. See pages 10 & 11 for record layout.
Record Type F3	Footnote Record	Optional. Zero or more Type F3 records per file. Contains explanatory footnote text. See pages 12 & 13 for record layout.
Record Type E4	Erratum Record	Zero Type E4 records in the first submission of a year's data. One or more Type E4 records per file in revisions filed to correct that year's submission. Contains information to identify the data which was corrected in this submission. See pages 14 & 15 for record layout.
Record Type T1	Trailer Record	One Type T1 record per file. The last record of each file. Contains contact person, etc. See page 16 for record layout.

RECORD TYPE H1 - HEADER RECORD

Field	Item	Example	Position	Description
1	Record Number	1001	1-4	The sequential number of this record within this data file plus 1000. Format: right justified and space filled.
2	COSA	"LBIL"	6-11	The COSA code for the filing entity. (see attached COSA Code Table) Format: include quotation marks.
3	Record Type	"H1"	13-16	Always contains the letter H capitalized and the number 1 with no space between them. Format: include quotation marks.
4	File Name	"LBIL90AC.U01"	18-31	The name of the ASCII file. Format: see page 1, paragraph B.4 above. include quotation marks.
5	Year	1990	33-36	The year covered by the data.
6	Quarter #	0	38	Always contains the number 0 since this is an annual data file.
7	Data Entry Date	19910315	40-47	The date on which the data was last entered or revised. Format: YYYYMMDD.
8	Version	"U"	49-51	The version letter (P, C or U) capitalized (for Public, Confidential or Unrestricted) Format: include quotation marks.
9	Submission #	1	53-54	0 for test data purposes only. 1 for first submission of a year's data. Higher numbers (2, 3, etc.) would be used if needed for successive revisions to correct that year's submission. Format: right justified and space filled.
10	End of Record Code	"XQ"	56-59	Always contains the letters XQ capitalized with no space between them to indicate the end of the record. Format: include quotation marks.

Note: Separate all fields with commas.
The ruler lines (123456789 etc.) included below and following with sample records are included only to assist the reader. Do not include ruler lines as records in the electronic filing.

```
        1         2         3         4         5          . . . . .    Ruler line
12345678901234567890123456789012345678901234567890123456789  . . . . .    Ruler line
Sample record:
1001,"LBIL","H1","LBIL90AC.C01",1990,0,19910315,"U", 1,"XQ"
```

RECORD TYPE L1 - LABEL RECORD

Field	Item	Example	Position	Description
1	Record Number	1002	1-4	The sequential number of this record within this data file plus 1000. Format: right justified and space filled.
2	COSA	"LBIL"	6-11	The COSA code for the filing entity. Format: include quotation marks.
3	Record Type	"L1"	13-16	Always contains the letter L capitalized and the number 1 with no space between them. Format: include quotation marks.
4	Report Number	"FCC REPORT 43-04"	18-35	Always contains "FCC REPORT 43-04" capitalized. Format: include quotation marks.
5	Carrier	"Illinois Bell " (spaces until pos. 68)	37-68	Name of the carrier. Format: left justified and space filled. include quotation marks.
6	Study Area	"Illinois "	70-91	Name of the study area. Format: left justified and space filled. include quotation marks.
7	Period Covered	"Jan 1990 to Dec 1990"	93-114	Period covered by the data. Format: "mmm yyyy to mmm yyyy" include quotation marks.
8	End of Record Code	"XQ"	116-119	Always contains the letters XQ capitalized with no space between them to indicate the end of the record. Format: include quotation marks.

Note: Separate all fields with commas

```
                                                                                                                    1         1
         1         2         3         4         5         6         7         8         9         0         1
12345678901234567890123456789012345678901234567890123456789012345678901234567890123456789012345678901234567890123456789
Sample record:
1002,"LBIL","L1","FCC REPORT 43-04","Illinois Bell                ","Illinois          ","Jan 1990 to Dec 1990","XQ"
```

RECORD TYPE K2 - SEPARATIONS AND ACCESS DATA RECORD

Field	Item	Example	Position	Description
1	Record Number	1066	1-4	The sequential number of this record within this data file plus 1000. Format: right justified and space filled.
2	COSA	"LBIL"	6-11	The COSA code for the filing entity. Format: include quotation marks.
3	Record Type	"K2"	13-16	Always contains the letter K capitalized and the number 2 with no space between them. Format: include quotation marks.
4	Row Number	1000.0	18-23	Row number as identified on the accompanying Report Definition. Valid range: 10.0 to 9010.0. Format: right justified and space filled, with one decimal place. Since all applicable row numbers are integers, append .0 to each row number.
5	Column (b) data	70864 -OR- 12.00 -OR- 12.6667	25-33	This field contains the data corresponding to column (b) as shown on the Form Section of the accompanying Report Definition. Format: right justified and space filled. Enter -99999 in all rows where a field is designated by N/A. All other fields must be populated. If there are no data applicable to an open field enter zero. Enter -88888 in rows on the "public version" diskette to indicate that confidential treatment has been requested.
6	Column (c) data	5432	35-43	Column (c) data Format: see Field 5 above.
7	Column (d) data	5432	45-53	Column (d) data Format: see Field 5 above.
8	Column (e) data	1358	55-63	Column (e) data Format: see Field 5 above.
9	Column (f) data	1358	65-73	Column (f) data Format: see Field 5 above.
10	Column (g) data	2716	75-83	Column (g) data Format: see Field 5 above.
11	Column (i) data	1358	85-93	Column (i) data Format: see Field 5 above.

RECORD TYPE K2 - SEPARATIONS AND ACCESS DATA RECORD (continued)

Field	Item	Example	Position	Description
12	Column (j) data	5432	95-103	Column (j) data Format: see Field 5 above.
13	Column (k) data	5432	105-113	Column (k) data Format: see Field 5 above.
14	Column (l) data	2716	115-123	Column (l) data Format: see Field 5 above.
15	Column (m) data	5432	125-133	Column (m) data Format: see Field 5 above.
16	Column (n) data	5432	135-143	Column (n) data Format: see Field 5 above.
17	Column (o) data	16296	145-153	Column (o) data Format: see Field 5 above.
18	Column (p) data	5432	155-163	Column (p) data Format: see Field 5 above.
19	Column (q) data	27160	165-173	Column (q) data Format: see Field 5 above.
20	Column (r) data	19136	175-183	Column (r) data Format: see Field 5 above.
21	End of Record Code	"XQ"	185-188	Always contains the letters XQ capitalized with no space between them to indicate the end of the record. Format: include quotation marks.

Note: Separate all fields with commas

Footnote records are needed if any data for the current period differs materially from that for the previous period and the difference is not self-explanatory but was caused by unusual circumstances that have not been explained in a previous report, or if the carrier does not follow the procedures described in the row/column instructions in the accompanying Report Definition. Add one or more Type F3 records (after the remaining Type K2 and C4 records) containing footnote text to explain the specific circumstances.

RECORD TYPE K2 - SEPARATIONS AND ACCESS DATA RECORD (continued)

```
        1         2         3         4         5         6         7         8         9
12345678901234567890123456789012345678901234567890123456789012345678901234567890123456789012345
Sample records:
1066,"LBIL","K2",1000.0,    70864,     5432,     5432,     1358,     1358,     2716,     5432,
1217,"LBIL","K2",1427.0,   -99999,   -99999,  12.6667,   -99999,   -99999,   -99999,   -99999,
1719,"LBIL","K2",8042.0,   -99999,   -99999,    12.67,   -99999,   -99999,   -99999,    11.57,
```

```
    1         1         1         1         1         1         1         1         1
9   0         1         2         3         4         5         6         7         8
5678901234567890123456789012345678901234567890123456789012345678901234567890123456789012345678
Continuation of sample records:
     5432,   -99999,     5432,     5432,    16296,     5432,    27160,    19136,    19136,"XQ"
   -99999,   -99999,   -99999,   -99999,   -99999,   -99999,   -99999,   -99999,   -99999,"XQ"
    11.57,    15.17,    12.84,     9.81,    11.51,    11.91,    12.67,   -99999,   -99999,"XQ"
```

RECORD TYPE C4 - CONFIDENTIAL TREATMENT RECORD

Field	Item	Example	Position	Description
1	Record Number (for this record)	1734	1-4	The sequential number of this record within this data file plus 1000. Format: right justified and space filled.
2	COSA	"LBIL"	6-11	The COSA code for the filing entity. Format: include quotation marks.
3	Record Type	"C4"	13-16	Always contains the letter C capitalized and the number 4 with no space between them. Format: include quotation marks.
4	Record Number (for the confidential data)	1066	18-21	This field contains the record number of the record which contains the data for which the carrier is seeking confidential treatment. If the request is for the entire column(s), or the entire submission, use 9999. If no confidential treatment is being requested, then use 0. Format: right justified and space filled.
5	Table Number	"I "	23-28	This field contains the table number (Roman numerals) of the table in which the confidential data appears. If the request is for the entire submission, enter "ZZZZ". If no confidential treatment is being requested, then enter " " Format: include quotation marks. left justified and space filled.
6	Row Number	1000.0	30-35	This field contains the row number of the row which contains the confidential data as identified in the accompanying Report Definition. If the request is for the entire column(s), an entire table, or the entire submission, enter 9999.0. If no confidential treatment is being requested then use 0. Format: right justified and space filled, with one decimal place. Since all applicable row numbers are integers, append .0 to each row number.
7	Column Label	"B "	37-40	This field contains the column letter of the confidential data as identified in the accompanying Report Definition. If the request is for an entire row, an entire table, or the entire submission, enter "ZZ". If the request is for more than one column but less than the entire row, then populate this field and as many as needed of fields 8 thru 22. If no confidential treatment is being requested, then enter " " in all of fields 7 thru 26. Format: include quotation marks. left justified and space filled.

RECORD TYPE C4 - CONFIDENTIAL TREATMENT RECORD (continued)

Field	Item	Example	Position	Description
8	Second Column Label	"C "	42-45	.....
9	Third Column Label	"I "	47-50	. Fields 8 thru 26 are similar
.				. to Field 7 and are used
.				. when the request is for
.				. the same row and more than
.				. one column.
26	Twentieth Col. Label	" "	132-135	..... Otherwise, enter " "
				Note: Fields 23 thru 26 are not used in this record in this data file.
27	End of Record Code	"XQ"	137-140	Always contains the letters XQ capitalized with no space between them to indicate the end of the record. Format: include quotation marks.

Note: Separate all fields with commas

```
         1         2         3         4         5         6         7         8         9
12345678901234567890123456789012345678901234567890123456789012345678901234567890123456
Sample records:
1734,"LBIL","C4",1066,"I   ",1000.0,"B ","C ","  ","  ","  ","  ","  ","  ","  ","  ","  ",
1735,"LBIL","C4",1719,"I   ",8042.0,"ZZ","  ","  ","  ","  ","  ","  ","  ","  ","  ","  ",
1736,"LBIL","C4",9999,"I   ",9999.0,"Q ","  ","  ","  ","  ","  ","  ","  ","  ","  ","  ",
1737,"LBIL","C4",9999,"ZZZZ",9999.0,"ZZ","  ","  ","  ","  ","  ","  ","  ","  ","  ","  ",

                                    - OR -

1734,"LBIL","C4",   0,"    ",   0.0,"  ","  ","  ","  ","  ","  ","  ","  ","  ","  ","  ",
```

```
   1         1         1         1         1
9  0         1         2         3         4
78901234567890123456789012345678901234567890
Continuation of sample records:
"  ","  ","  ","  ","  ","  ","  ","  ","XQ"
"  ","  ","  ","  ","  ","  ","  ","  ","XQ"
"  ","  ","  ","  ","  ","  ","  ","  ","XQ"
"  ","  ","  ","  ","  ","  ","  ","  ","XQ"

              - OR -

"  ","  ","  " "  ","  ","  ","  ","  ","XQ"
```

RECORD TYPE F3 - FOOTNOTE TEXT RECORD

Field	Item	Example	Position	Description
1	Record Number (for this record)	1738	1-4	The sequential number of this record within this data file plus 1000. Format: right justified and space filled.
2	COSA	"LBIL"	6-11	The COSA code for the filing entity. Format: include quotation marks.
3	Record Type	"F3"	13-16	Always contains the letter F capitalized and the number 3 with no space between them. Format: include quotation marks.
4	Record Number (for the footnoted data)	1066	18-21	This field contains the record number of the record which contains the footnoted data. If the footnote pertains to the entire column(s), an entire table, or the entire submission, use 9999. Format: right justified and space filled.
5	Table Number	"I "	23-28	This field contains the table number (Roman numerals) of the table in which the footnoted data appears. If the footnote pertains to an entire table, use "ZZZZ". Format: include quotation marks. left justified and space filled.
6	Row Number	1000.0	30-35	This field contains the row number of the row which contains the footnoted data as identified in the accompanying Report Definition. If the footnote pertains to the entire column(s), an entire table, or the entire submission, enter 9999.0. Format: right justified and space filled, with one decimal place. Since all applicable row numbers are integers, append .0 to each row number.
7	Column Label	"B "	37-40	This field contains the column letter of the footnoted data as identified in the accompanying Report Definition. If the footnote pertains to an entire row, an entire table, or the entire submission, enter "ZZ". Format: include quotation marks. left justified and space filled.

RECORD TYPE F3 - FOOTNOTE TEXT RECORD (continued)

Field	Item	Example	Position	Description
8	Footnote Number	1	42-44	The number of this particular footnote. Valid range: 1 to 999. Format: right justified and space filled.
9	Sequence Number	1	46-47	The sequence number of the record within the footnote. In other words, the order of the specific record in the sequence of records which, when combined, will provide the entire footnote. Valid range: 1 to 99. Format: right justified and space filled.
10	Footnote Text	"Footnote text " (spaces until pos. 105)	49-105	The text of the footnote or of the continuation line. Format: include quotation marks at the beginning and end of this field and left justify within these quotation marks.
11	End of Record Code	"XQ"	107-110	Always contains the letters XQ capitalized with no space between them to indicate the end of the record. Format: include quotation marks.

Note: Separate all fields with commas

```
                                                                                                                    1         1
         1         2         3         4         5         6         7         8         9         0         1
1234567890123456789012345678901234567890123456789012345678901234567890123456789012345678901234567890123456789012345678901
Sample records:
1738,"LBIL","F3",1066,"I   ",1000.0,"B ",  1, 1,"Footnote text for footnote 1                                  ","XQ"
1739,"LBIL","F3",1066,"I   ",1000.0,"B ",  1, 2,"continuation text for footnote 1                              ","XQ"
1740,"LBIL","F3",1066,"I   ",1000.0,"B ",  1, 3,"last line of footnote 1                                       ","XQ"
1741,"LBIL","F3",1719,"I   ",8042.0,"ZZ",  2, 1,"Footnote 2 pertains to all cols. of Table I row 8042          ","XQ"
1742,"LBIL","F3",9999,"I   ",9999.0,"C ",  3, 1,"Footnote 3 pertains to all rows of Table I column C           ","XQ"
```

RECORD TYPE E4 - ERRATUM RECORD

Field	Item	Example	Position	Description
1	Record Number (for this record)	1743	1-4	The sequential number of this record within this data file plus 1000. Format: right justified and space filled.
2	COSA	"LBIL"	6-11	The COSA code for the filing entity. Format: include quotation marks.
3	Record Type	"E4"	13-16	Always contains the letter E capitalized and the number 4 with no space between them. Format: include quotation marks.
4	Record Number (for the corrected data)	1066	18-21	This field contains the record number of the record which contains the data which was corrected in this submission. If the entire column(s), an entire table, or the entire submission was corrected, use 9999. Format: right justified and space filled.
5	Table Number	"I "	23-28	This field contains the table number (Roman numerals) of the table in which the corrected data appears. If an entire table or submission was corrected, use "ZZZZ". Format: include quotation marks. left justified and space filled.
6	Row Number	1000.0	30-35	This field contains the row number of the of the row which contains the corrected data as identified in the accompanying Report Definition. If the entire column(s), an entire table, or the entire submission was corrected, enter 9999.0. Format: right justified and space filled, with one decimal place. Since all applicable row numbers are integers, append .0 to each row number.
7	Column Label	"B "	37-40	This field contains the column letter of the corrected data as identified in the accompanying Report Definition. If an entire row, an entire table, or the entire submission was corrected, enter "ZZ". If more than one column but less than the entire row was corrected, then populate this field and as many as needed of fields 8 thru 22. Format: include quotation marks. left justified and space filled.

RECORD TYPE E4 - ERRATUM RECORD (continued)

Field	Item	Example	Position	Description
8	Second Column Label	"C "	42-45	.....
9	Third Column Label	"I "	47-50	. Fields 8 thru 26 are similar
.				. to Field 7 and are used
.				. when the correction is in
.				. the same row and more than
.				. one column.
26	Twentieth Col. Label	" "	132-135	..... Otherwise, enter " "
				Note: Fields 23 thru 26 are not used in this record in this data file.
27	Footnote Number	1	137-139	This field contains the footnote number that explains the correction. If there is no footnote, use a zero. Format: right justified and space filled.
28	End of Record Code	"XQ"	141-144	Always contains the letters XQ capitalized with no space between them to indicate the end of the record. Format: include quotation marks.

Note: Separate all fields with commas

```
         1         2         3         4         5         6         7         8         9
12345678901234567890123456789012345678901234567890123456789012345678901234567890123456
Sample records:
1743,"LBIL","E4",1066,"I   ",1000.0,"B ","C ","  ","  ","  ","  ","  ","  ","  ","  ","  ",
1744,"LBIL","E4",1719,"I   ",8042.0,"ZZ","  ","  ","  ","  ","  ","  ","  ","  ","  ","  ",
1745,"LBIL","E4",9999,"I   ",9999.0,"B ","  ","  ","  ","  ","  ","  ","  ","  ","  ","  ",
1746,"LBIL","E4",9999,"I   ",9999.0,"C ","  ","  ","  ","  ","  ","  ","  ","  ","  ","  ",
```

```
   1         1         1         1         1
9  0         1         2         3         4
78901234567890123456789012345678901234567890123456789012345678901234
Continuation of sample records:
"  ","  ","  ","  ","  ","  ","  ","  ",  1,"XQ"
"  ","  ","  ","  ","  ","  ","  ","  ",  2,"XQ"
"  ","  ","  ","  ","  ","  ","  ","  ",  0,"XQ"
"  ","  ","  ","  ","  ","  ","  ","  ",  3,"XQ"
```

RECORD TYPE T1 - TRAILER RECORD

Field	Item	Example	Position	Description
1	Record Number	1747	1-4	The sequential number of this record within this data file plus 1000. Format: right justified and space filled.
2	COSA	"LBIL"	6-11	The COSA code for the filing entity. Format: include quotation marks.
3	Record Type	"T1"	13-16	Always contains the letter T capitalized and the number 1 with no space between them. Format: include quotation marks.
4	Contact Person	"John Doe (spaces until pos. 59)	18-59	The name of the person to contact if there are questions about the report. Format: include quotation marks.
5	Telephone #	"(202) 555-1212 x123 "	61-82	The Contact Person's telephone number. Format: include quotation marks.
6	End of Record Code	"XQ"	84-87	Always contains the letters XQ capitalized with no space between them to indicate the end of the record. Format: include quotation marks.

Note: Separate all fields with commas

Sample record:

```
        1         2         3         4         5         6         7         8
12345678901234567890123456789012345678901234567890123456789012345678901234567

1747,"LBIL","T1","John Doe                                    ","(202) 555-1212 x123 ","XQ"
```

A. Introduction

This document contains the page layout and detailed specifications for the paper report to be filed as FCC Report 43-04, the ARMIS Access Report.

B. General Instructions

1. See sections B and C on pages 1 and 2 of the accompanying Reporting Procedures for a discussion of the Confidential Version, the Public Version, and the Unrestricted Version of this report and for a definition and discussion of data items that are "Not Available" or are "Withheld."

2. The Ruler Lines included on the page layouts with the column titles are included only to assist the reader. Do not include ruler lines as lines in the report.

3. The paper report must be printed on 8 1/2 inch by 11 inch paper. For ease of preparation, an original may be produced on larger paper and reduced to this size for submission. Copies filed must be legible and permanent, in black ink. The report may be printed in portrait mode (8 1/2 inches across the top of the page) or landscape mode (11 inches across the top of the page). In portrait mode, the printing should not be smaller than 17 characters per inch and 8 lines per inch; in landscape mode, the printing should not be smaller than 15 characters per inch and 10 lines per inch.

C. Data Entry Conventions

1. If an entry is to be a subtraction, indicate so by placing a minus sign in the column immediately preceding the numeric data, e.g., use -4 or (4), NOT - 4.

2. Items that need not be reported because they do not apply are designated by N/A. If a "Public Version" report is filed, enter W/H in any numeric data field for which data is "Withheld". **DO NOT** override N/As. If a reporting carrier wishes to apply data to a field containing an N/A, the carrier should enter as a footnote to the field, the amount(s) and an explanation. All other fields must be populated. If there are no data applicable to an open field enter zero.

D. Rounding Conventions

1. As specified in the accompanying Report Definition, all monetary figures must be rounded to the nearest thousand, with the exception of rows 1273, 1335, 1453, 1495, 9005, 9007, 9008 and 9009. The dollar amounts in these rows must be rounded to the

nearest penny and such amounts must be entered in dollars and cents (e.g., if cost per loop is $6.445 it must be entered as 6.45). Do not round row 9007.

2. All amounts of minutes must be rounded to the nearest million except as noted in number 5, below.

3. All conversation-minute-miles must be rounded to the nearest million. All circuit miles must be rounded to the nearest thousand.

4. All rate of return percentage amounts must be entered in percent and must be rounded to 2 decimal places (e.g., 12 2/3 percent should be entered as 12.67). All other percentage amounts must be entered in percent and must be rounded to 4 decimal places (e.g., 12 2/3 percent should be entered as 12.6667).

5. All seconds, including weighted standard work seconds, must be rounded to thousands. Toll minutes of use on row 1127 must be rounded to thousands.

6. All weighted actual contacts and users must be entered in whole numbers.

7. All amounts for loops and terminations must be entered in whole numbers.

8. All other amounts must be rounded to the nearest thousand.

E. **Page Layouts**

The ninety page layouts for Table I are illustrated in the Form section of the accompanying Report Definition. In addition, the following note must appear at the bottom of each page of Table I, where applicable:

THE COMPANY HAS REQUESTED CONFIDENTIAL TREATMENT FOR SOME DATA ON THIS PAGE. SEE THE CONFIDENTIAL TREATMENT TABLE FOR SPECIFIC INFORMATION.

The four page layouts for the Confidential Treatment Table, the Footnote Table, the Erratum Table, and the Certification Page are illustrated on pages 4 through 7 of this document.

The paper report will consist of the following pages, in order:

	Illustrated in Report Def. - Form on Page
Table I Pages 1.1 through 1.3	1 - 3
Table I Pages 2.1 through 2.3	4 - 6
Table I Pages 3.1 through 3.3	7 - 9
. .	
. .	
. .	
Table I Pages 30.1 through 30.3	88 - 90

	Illustrated in Paper Report Specs. on Page .
The Confidential Treatment Table (at least one page and as many pages as needed)	4
The Footnote Table (at least one page and as many pages as needed)	5
The Erratum Table (for submission number 2 or higher, as many pages as needed)	6
The Certification Page	7

FCC REPORT 43-04
ARMIS ACCESS REPORT

Approved by OMB
3060-0395
Expires 10/31/92

COMPANY: xxxxxxxxxxxxxxxxxxxxxxxxxxxxxx xxxxxxxxxxxx VERSION
STUDY AREA: xxxxxxxxxxxxxxxxxxx SUBMISSION x
PERIOD: From mmm yyyy to mmm yyyy CONF. TREATMENT TABLE
COSA: xxxx PAGE 1 OF x

CONFIDENTIAL TREATMENT TABLE

Table	Row	Column(s)	
(a)	(b)	(c)	
xxxx	1234.1	x, x, x, x, x, x, x, x, x, x, x, x, x, x, x, x	... Ruler Line

sample entries:

I	1000	B, C	
I	8042	ALL	
I	ALL	Q	

THE COMPANY HAS REQUESTED CONFIDENTIAL TREATMENT FOR THE ABOVE DATA
IN THIS REPORT.

-OR-

THE COMPANY HAS NOT REQUESTED CONFIDENTIAL TREATMENT FOR ANY DATA
IN THIS REPORT.

FCC REPORT 43-04
ARMIS ACCESS REPORT

Approved by OMB
3060-0395
Expires 10/31/92

COMPANY: xxxxxxxxxxxxxxxxxxxxxxxxxxxxxx xxxxxxxxxxxx VERSION
STUDY AREA: xxxxxxxxxxxxxxxxxxx SUBMISSION x
PERIOD: From mmm yyyy to mmm yyyy FOOTNOTE TABLE
COSA: xxxx PAGE 1 OF x

FOOTNOTE TABLE

Table	Row	Col	FN#	Footnote
(a)	(b)	(c)	(d)	(e)
xxxx	1234.1	xxx	123	xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx ... Ruler Line

sample entries:

I	1000	B	1	Footnote text for footnote 1 continuation text for footnote 1 last line of footnote 1
I	8042	ALL	2	Footnote 2 pertains to all cols. of Table I row 8042
I	ALL	C	3	Footnote 3 pertains to all rows of Table I column C

-OR-

THERE ARE NO FOOTNOTES FOR THIS SUBMISSION.

FCC REPORT 43-04
ARMIS ACCESS REPORT

Approved by OMB
3060-0395
Expires 10/31/92

COMPANY: xxxxxxxxxxxxxxxxxxxxxxxxxxxxxx xxxxxxxxxxxx VERSION
STUDY AREA: xxxxxxxxxxxxxxxxxxx SUBMISSION x
PERIOD: From mmm yyyy to mmm yyyy ERRATUM TABLE
COSA: xxxx PAGE 1 OF x

ERRATUM TABLE

Table	Row	Column(s)	FN#	
(a)	(b)	(c)	(d)	
xxxx	1234.1	x, x, x, x, x, x, x, x, x, x, x, x, x, x, x, x	123	... Ruler Line
			=	
sample entries:				
I	1000	B, C	1	
I	8042	ALL	2	
I	ALL	B		
I	ALL	C	3	

THE ABOVE DATA HAS BEEN CORRECTED IN THIS SUBMISSION.
SEE THE FOOTNOTE TABLE FOR FOOTNOTES WHERE APPLICABLE.

CERTIFICATION

I certify that I am an officer of _____ ____; that I have examined the foregoing report and that to the best of my knowledge, information, and belief, all statements of fact contained in this report are true and that said report is an accurate statement of the affairs of the above named respondent in respect to the data set forth herein for the period from _____ to _____.

PRINTED NAME _____

POSITION _____

SIGNATURE _____

DATE _____

(Persons making willful false statements in this report form can be punished by fine or imprisonment under the Communications Act, 47 U.S.C. 220(e).)

CONTACT PERSON _____

TELEPHONE NUMBER _____

DIVESTED BOC INDEX

Holding Company	Combined Operating Companies	Operating Company	Combined Study Areas	Study Area	COSA Code
Ameritech					AMTR
		1. Illinois Bell		- Illinois	LBIL
		2. Indiana Bell		- Indiana	NBIN
		3. Michigan Bell		- Michigan	MBMI
		4. Ohio Bell		- Ohio	OBOH
		5. Wisconsin Bell		- Wisconsin	WTWI
Bell Atlantic					BATR
	1.	the Chesapeake and Potomac telephone companies			CPTC
		1. C&P (D.C.)		- Dist. of Columbia	CDDC
		2. C&P of Maryland		- Maryland	CMMD
		3. C&P of Virginia		- Virginia	CVVA
		4. C&P of West Virginia		- West Virginia	CWWV
	2.	Bell of PA and Diamond State			PDTC
		1. Diamond State Telephone		- Delaware	DSDE
		2. Bell of Pennsylvania		- Pennsylvania	PAPA
	3.	New Jersey Bell			
		1. New Jersey Bell		- New Jersey	NJNJ
Bell South					BSTR
		1. Southern Bell			SBTC
				- Florida	SBFL
				- Georgia	SBGA
				- North Carolina	SBNC
				- South Carolina	SBSC
		2. South Central Bell			SCTC
				- Alabama	SCAL
				- Kentucky	SCKY
				- Louisiana	SCLA
				- Mississippi	SCMS
				- Tennessee	SCTN
NYNEX					NXTR
		1. New England Telephone			NETC
				- Maine	NEME
				- Massachusetts	NEMA
				- New Hampshire	NENH
				- Rhode Island	NERI
				- Vermont	NEVT
		2. New York Telephone		- New York	NYNY
Pacific Telesis					PTTR
		1. Pacific Bell		- California	PTCA
		2. Nevada Bell		- Nevada	PTNV

Holding Company	Combined Operating Companies	Operating Company	Combined Study Areas	Study Area	COSA Code
Southwestern Bell Telephone Company					SWTR
				- Arkansas	SWAR
				- Kansas	SWKS
				- Missouri	SWMO
				- Oklahoma	SWOK
				- Texas	SWTX
			all except Kansas		SWAG
U.S. West					USTR
		1. Mountain Bell			MSTC
				- Arizona	MSAZ
				- Colorado	MSCO
				- Idaho	MSID
				- Montana	MSMT
				- New Mexico	MSNM
				- Utah	MSUT
				- Wyoming	MSWY
		2. Northwestern Bell			NWTC
				- Iowa	NWIA
				- Minnesota	NWMN
				- Nebraska	NWNE
				- North Dakota	NWND
				- South Dakota	NWSD
		3. Pacific Northwest Bell			PNTC
				- Idaho	PNID
				- Oregon	PNOR
				- Washington	PNWA
Total Divested Bell Operating Companies					TBOC

INDEPENDENT COMPANY INDEX

Holding Company	Combined Operating Companies	Operating Company	Combined Study Areas	Study Area	COSA Code
Alascom, Inc.				- Alaska	AKAK
Central Telephone Company					CETC
		1. of Florida		- Florida	CEFL
		2. of Illinois		- Illinois	CEIL
		3. of Nevada		- Nevada	CENV
		4. of Virginia		- Virginia	CEVA
Cincinnati Bell Telephone	- Ohio & Kentucky				CBTC
Continental Telephone Company					COTC
		1. Contel of California		- California	COCA
		2. Contel of Illinois		- Illinois	COIL
		3. Contel of Missouri		- Missouri	COMO
		4. Contel of New York		- New York	CONY
		5. Contel of Texas		- Texas	COTX
		6. Contel of Virginia		- Virginia	COVA
GTE Telephone Operating Companies					GTTC
		1. GTE California Inc.		- California	GTCA
		2. GTE Florida Inc.		- Florida	GTFL
		3. GTE Northwest Inc.			GTNW
			- Idaho & Montana		GTNA
				- Idaho	GTID
				- Montana	GTMT
			OR, WA & Wstn CA		GTNB
				- Oregon	GTOR
				- Washington	GTWA
				- West Coast CA	GNCA
		4. GTE South Inc.			GTSO
				- Alabama	GTAL
				- Georgia	GTGA
				- Kentucky	GTKY
				- North Carolina	GTNC
				- South Carolina	GTSC
				- Tennessee	GTTN
				- Virginia	GTVA
				- West Virginia	GTWV

Holding Company	Combined Operating Companies	Operating Company	Combined Study Areas	Study Area	COSA Code
		5. GTE Southwest Inc.			GTSW
				- Arkansas	GTAR
				- New Mexico	GTNM
				- Oklahoma	GTOK
				- Texas	GTTX
		6. GTE North Inc.			GTMW
				- Illinois	GTIL
				- Indiana	GTIN
			- Iowa & Minnesota		GTIM
				- Iowa	GTIA
				- Minnesota	GTMI
				- Michigan	GTMN
				- Missouri	GTMO
				- Nebraska (also serving Kansas)	GTNE
				- Ohio	GTOH
				- Pennsylvania	GTPA
				- Wisconsin	GTWI
				- General Offices	GTGO
		7. GTE Hawaiian Tel. Co. Inc.		- Hawaii	GTHI
Lincoln Telephone Company				- Nebraska	LTNE
Puerto Rico Telephone Company				- Puerto Rico	PRPR
Rochester Telephone Corporation				- New York	RTNY
Southern New England Telephone				- Connecticut	SNCT
United Telephone System					UTTC
		1. United Tel. Co. of Florida		- Florida	UTFL
		2. United Tel. Co. of Indiana		- Indiana	UTIN
		3. United Tel. Co. of Missouri		- Missouri	UTMO
		4. Carolina Tel. and Tel. Co.		- North Carolina	UTNC
		5. United Tel. Co. of Ohio		- Ohio	UTOH
		6. United Tel. Co. of Penn.		- Pennsylvania	UTPA
		7. United Inter-Mountain Tel. Co.			UTIM
				- Tennessee	UTTN
				- Virginia	UTVA
Total Independent Companies					TICO
AT&T Communications					ATTC
Total Industry					TOTL

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